

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE
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PROPOSED INTERIM RULE ON
SOLID WOOD PACKING MATERIAL FROM CHINA

Pages: 1 through 106
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BEFORE THE
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PROPOSED INTERIM RULE ON
SOLID WOOD PACKING MATERIAL FROM CHINA

Hyatt Regency
200 South Pine Avenue
Long Beach, California

Thursday,
November 5, 1998
9:09 a.m.

Heritage Reporting Corporation
(202) 628-4888

1 LONG BEACH, CALIFORNIA THURSDAY, NOVEMBER 5, 1998 9:09 A.M.

2 --oOo--

3 MR. LIDSKY: Ladies and gentlemen, good morning,
4 and welcome to the Animal and Plant Health Inspection
5 Services public hearing on its interim rule on solid wood
6 packing material from China.

7 My name is Mike Lidsky. I've been asked by the
8 Deputy Administrator for Plant Protection and Quarantine,
9 which we refer to as PPQ, to be the presiding officer at
10 today's hearing.

11 Today's hearing in Long Beach is the third public
12 hearing we're holding on the interim rule. The first was
13 held in Washington, D.C. on October the 16th. The second
14 was held in Seattle, Washington on November the 3rd. Notice
15 of these hearings was published in the Federal Register on
16 October the 13th, in volume 63, on page 54,553.

17 USDA previously held a briefing for stakeholders
18 on September the 18th, the date of publication of the
19 interim rule. The purpose of that briefing was to inform
20 interested persons about the pertinent provisions of the
21 rule as early as possible, and to answer clarifying
22 questions about the rule. However, because there was not a
23 court reporter present at the briefing, the attendees were
24 asked to refrain from providing comments on the interim
25 rule.

26 The purpose of today's hearing is to receive your
27 comments on the interim rule. You have the opportunity to
28 ask clarifying questions about the provisions of the interim
29 rule, and direct those questions to the persons who have

1 been responsible for drafting the pest risk assessment, as
2 well as other documents associated with the interim rule.

3 In the course of this process Agency personnel
4 will be limited to clarifying or explaining the provisions
5 of the interim rule and the documents upon which it is
6 based, but must refrain from answering questions which would
7 address any particular future regulatory action the Agency
8 may take in the course of this regulatory proceeding.

9 APHIS views this hearing as an opportunity to
10 receive public comments and answer clarifying questions, and
11 not as an opportunity for a debate on the issues.

12 We will consider comments that are received within
13 60 days of the publication of this rule in the Federal
14 Register. After the comment period closes, we will publish
15 another document in the Federal Register. That document
16 will include a discussion of the relevant comments we've
17 received, and any amendments that may be made to the rule as
18 a result of those comments. The comment period closes
19 November 17th, and comments must be received on or before
20 that date.

21 If APHIS decides, based on the comments received
22 on the interim rule, to publish a rule that significantly
23 changes the regulatory requirements of the interim rule in
24 such a way that persons affected by the rule need time to
25 change their business procedures, we will set an appropriate
26 effective date for the rule to allow time for implementation
27 of such changes.

28 As noted in the Federal Register of September the
29 18th, the effective date is December 17th, 1998.

1 Persons who have registered to speak will be given
2 an opportunity to speak before unregistered persons. If the
3 time permits, persons who have not registered will be given
4 an opportunity to speak once all registered persons have
5 been heard.

6 Today's hearing is scheduled to conclude at 5:00
7 p.m. I may conclude the hearing before 5:00 p.m. if all
8 persons who have been registered to participate have been
9 heard and there are no other persons who wish to speak.
10 However, I may limit the time for each presentation so that
11 everyone is accommodated and all interested persons have an
12 opportunity to participate.

13 I will announce any other procedural rules for the
14 conduct of today's hearing as may be necessary.

15 Extra copies of the interim rule published on
16 September 18th in volume 63 of the Federal Register, pages
17 50,100 through 50,111, and the pest risk assessment, have
18 been made available on the registration table. Copies of
19 these documents can also be viewed by visiting the APHIS web
20 site at www.aphis.usda.gov.

21 There is also a special section on the web site
22 under, quote, "hot issues" specifically for the Asian
23 longhorned beetle. A copy of the transcript for the
24 Washington, D.C. public hearing can also be found on the web
25 site under the regulations section.

26 All comments made here today are being recorded
27 and will be transcribed. The court reporter for today's
28 hearing is Mr. John Hankel of the Heritage Reporting
29 Corporation. Those persons wishing to receive a copy of

1 today's transcript should contact the court reporter for
2 today's hearing. He will provide a copy of the transcript
3 for a fee and can be reached at area code (202) 628-4888.

4 A copy of the transcript shall be made available
5 for public inspection at the APHIS reading room, room 1141
6 South Building, 14th and Independence Avenue S.W. in
7 Washington, D.C. The room is open from 8:00 a.m. to 4:30
8 p.m., except holidays. A copy will be available in
9 approximately five business days. However, more
10 importantly, a copy of the transcript will also be posted on
11 our web site, and that's both for this hearing and the
12 Seattle, Washington hearing as well.

13 The web site address, again, is
14 www.aphis.usda.gov.

15 As presiding officer I shall announce each
16 registered speaker that has requested to make a prepared
17 statement. Before commencing your remarks, please state and
18 spell your last name for the benefit of the court reporter.

19 In accordance with the procedures -- excuse me.
20 In accordance with the procedures noted in the September
21 18th interim rule, I am requesting that anyone who reads a
22 prepared statement please provide me with two copies of your
23 prepared statement at the conclusion of your remarks.

24 Any written statement, as well as any oral
25 statement, submitted or presented at today's hearing, as
26 well as any written comments submitted prior to the close of
27 the comment period, shall become part of the public record
28 for this proceeding.

29 If an individual's comments do not relate to the

1 stated purpose of this hearing, which is to present comments
2 or questions on the interim rule, it will be necessary for
3 me to ask the speaker to focus his or her comments
4 accordingly.

5 Any comments made in addition to those presented
6 at today's hearing should be submitted to Docket Number 98-
7 087-1, Regulatory Analysis and Development, PPD, APHIS,
8 Suite 3C03, 4700 River Road, Unit 118, Riverdale, Maryland,
9 20737. When submitting such comments by mail, please submit
10 an original and three copies.

11 And these instructions are found in the interim
12 rule as well.

13 Before concluding my remarks I would like to
14 introduce the other persons seated in the front of the room.
15 To my left is Mr. Ron Campbell, who is an import specialist
16 with the phytosanitary issues management branch of PPQ
17 programs.

18 Next to Mr. Campbell is Mr. Joe Cavey, an
19 entomologist with PPQ. Next to Mr. Cavey is Mr. Dave
20 Reeves, a port operations specialist with the Agricultural
21 Quarantine Inspection Unit of PPQ.

22 During the course of these proceedings I may make
23 comments of an advisory nature to panel members. I may
24 advise a panel member not to respond if we believe that a
25 posed question calls for a speculative response regarding
26 future regulatory action that the Agency may take with
27 regard to publication of the final rule. We simply do not
28 know at this point what, if any, changes may be made to the
29 interim rule, and, hence, we would not want to speculate on

1 such matters.

2 Mr. Campbell will now provide background
3 information on the interim rule and how to comply with it.
4 After the presentation by Mr. Campbell, I will call the
5 first registered speaker. Ron?

6 MR. CAMPBELL: Thanks, Mike.

7 Good morning. My name is Ron Campbell. I'm an
8 import specialist with Plant Protection and Quarantine
9 Programs of the Animal and Plant Health Inspection Service
10 in Riverdale, Maryland.

11 As you're aware, Plant Protection and Quarantine
12 is amending the regulation that governs the importation of
13 logs, lumber, and other unmanufactured wood articles to
14 prohibit solid wood packing material from China, unless it's
15 prohibited under -- unless it is imported under specific
16 phytosanitary conditions.

17 Wood packing material is defined in the regulation
18 as wood packing materials, other than loose wood packing
19 materials, used or for use with cargo to prevent damage,
20 including, but not limited to, dunnage, crating, pallets,
21 packing blocks, drums, cases, and skids.

22 Not included are synthetic or highly-processed
23 wood materials used as packing material, such as plywood,
24 oriented strand board, corrugated paper board, plastic, and
25 resin composites.

26 This emergency action is necessary because of
27 outbreaks and regulatory finds of exotic deep wood boring
28 beetles linked directly to solid wood packing material from
29 China.

1 On March 7th, 1996, APHIS announced a quarantine
2 in Brooklyn, New York because of an infestation of the Asian
3 longhorned beetle. This is a serious pest in its native
4 environment, China, where it has few known natural enemies.
5 In the United States it has none.

6 Asian longhorned beetles attack many different
7 hardwood trees, including Norway, Sugar, Silver, and Red
8 Maple, Horse Chestnut, Poplar, Willow, Elm, Mulberry, and
9 Black Locust. The adult female lays eggs on the bark of the
10 tree that hatch into larvae. The larvae then bore into the
11 heartwood of the tree and eventually kill it.

12 Because the insect spends the majority of its
13 lifecycle inside the tree, it is virtually impossible to
14 eradicate with insecticides. And research has not yet
15 produced a trap specific to this pest. The only way to
16 eradicate the beetle is to remove and destroy infested
17 trees.

18 Since this outbreak APHIS intensified its
19 inspection protocol to uncover the source of the
20 infestation. In warehouses and residential sites outside of
21 U.S. ports of entry inspectors discovered the Asian
22 longhorned beetle and three other dangerous forest pests 26
23 times in 14 states around the country.

24 Every interception was associated with solid wood
25 packing material from China. Now that it has been proven
26 that solid wood packing material from China is a pathway for
27 exotic forest pests, an existing phytosanitary measure, as
28 outlined in the regulations, are ineffective in preventing
29 the entry of these pests.

1 U.S. producers, environmental groups, and the
2 National Plant Board, consisting of departments of
3 agriculture from all 50 states, have petitioned APHIS to
4 take emergency interim measures to halt further introduction
5 of these pests.

6 Then, in July another infestation of the Asian
7 longhorned beetle was discovered in Chicago, Illinois,
8 adding to the urgency of the situation and confirming that
9 these emergency interim measures are warranted.

10 Pest risk assessment was completed, revealing the
11 likelihood of establishment and the consequences of
12 introduction of the Asian longhorned beetle, *Anoplophora*
13 *glabripennis*, and three other genre of insects intercepted
14 on wood packing material from China: *Monochamus*, *Ceresium*,
15 and *Hesperophanes*.

16 Specifically, it evaluated the Asian longhorned
17 beetle's current status in China as a perennially serious
18 pest, despite the presence of co-evolved natural enemies,
19 and warned of the disastrous effects this pest could inflict
20 on U.S. forests, changing the composition of tree species
21 enough to cause significant ecological impact.

22 And environmental assessment and finding of no
23 significant impact have been prepared for this rule,
24 weighing the risks associated with added pesticide usage
25 versus the threat to our environment from further
26 introductions of exotic forest pests.

27 In this analysis, APHIS carefully considered four
28 alternatives and their potential environmental consequences.
29 specifically, APHIS is concerned that any increase in methyl

1 bromide use as a result of this interim rule does not cause
2 long-lasting damage to the ozone layer.

3 APHIS also emphasizes that this is an interim
4 measure that will remain in effect for only as long as it
5 takes to develop a more effective solution to the problem:
6 a pest problem that could, if not addressed, result in
7 substantial environmental damage to forests and ecosystems
8 in the United States.

9 Also evaluated during the development of this
10 regulation were the costs associated with the introduction
11 of these pests. This economic analysis concluded that if
12 left unchecked these pests have the potential to cause
13 losses of 41 billion dollars, affecting the forest, maple
14 syrup, nursery, and tourist industries in the United States.

15 The added costs to APHIS also associated with
16 inspection and possible destruction of untreated solid wood
17 packing material was also assessed. To compensate for these
18 costs APHIS will charge a new hourly user fee in cases where
19 inspection services exceed normal service demands.

20 The new user fee will cover situations in which
21 APHIS must inspect a shipment that lacks a required exporter
22 statement or certificate. For example, if an inspector
23 determines that a shipment imported from China contains
24 untreated solid wood packing material, in violation of the
25 quarantine, the inspector may allow the importer to separate
26 the cargo and destroy or re-export the wood under APHIS
27 supervision.

28 This service would, however, exceed the normal
29 service demands APHIS provides under the current user fee

1 structure. Accordingly, to offset some of these additional
2 costs, APHIS will charge the importer an hourly user fee for
3 these services.

4 Many inter and intra departmental briefings
5 occurred during the development of this rule and common
6 sense suggestions were accepted from U.S. Customs, the
7 Department of Commerce, the Department of State, the U.S.
8 Trade Representative's office, the President's Council on
9 Environmental Quality, and others, to insure that all
10 agencies and departments most impacted by these new
11 requirements are prepared for their implementation.

12 On Friday, September 18th, APHIS published these
13 new requirements. They state that starting December 17th,
14 1998, APHIS will require that all cargo shipped from China
15 and Hong Kong be accompanied by official certification from
16 the Chinese government stating that all solid wood packing
17 material associated with the shipment is heat treated,
18 fumigated, or treated with preservatives prior to arrival in
19 the U.S.

20 If no solid wood packing material is associated
21 with the cargo, then the import documentation relating to
22 the shipment must include a statement declaring so. Solid
23 wood packing material without official certification of
24 treatment will be prohibited. Solid wood packing material
25 found infested will be prohibited. There will be no
26 treatment option in the United States, except destruction or
27 re-exportation of the wood.

28 If there is no solid wood packing material
29 associated with the shipment, then a statement from the

1 exporter must appear on the shipping documentation declaring
2 this. The Hong Kong special administrative region is
3 included because about one half of mainland China's exports
4 to the United States come through Hong Kong.

5 In view of the separate Custom's territory status
6 and separate quarantine and inspection regime maintained by
7 the Hong Kong special administrative region, we are
8 considering changes to the interim rule in order to avoid
9 unnecessary effects on Hong Kong's trade with the United
10 States, while preventing further introductions of serious
11 plant pests.

12 After the October 16th public hearing in
13 Washington, D.C. there was some confusion over the December
14 17 effective date. This date refers to the date the cargo
15 leaves China, that is, cargo leaving China on or after
16 December 17 is subject to the requirements of the interim
17 rule.

18 A notice was published in the Federal Register on
19 October 23rd clarifying this issue and is available at the
20 registration table.

21 As previously stated, we are accepting written and
22 oral comments from the public in reaction to this new
23 regulation. From these comments we hope to be made aware of
24 possible adjustments and improvements to the rule.

25 Some ambiguities have already come to light and
26 are addressed in the Q&A's available at the registration
27 table. Included in these Q&A's are specific treatments
28 extracted from the PPQ treatment manual that are efficacious
29 in controlling the pests outlined in the rule, and a sample

1 of the fumigation certificate we will be accepting upon
2 implementation of the regulation.

3 After the December 17 effective date, we will
4 continuously monitor and evaluate the program we have put in
5 place, and make adjustments where warranted. If it is
6 discovered that these interim measures are not sufficient,
7 then more restrictive actions will be considered.

8 Thank you in advance for your comments and for
9 taking the time to help APHIS prevent further introductions
10 of these destructive forest pests.

11 MR. LIDSKY: Our first registered speaker is Mr.
12 Tom Bogan.

13 (Pause.)

14 MR. BOGAN: Do you need my name? Tom Bogan,
15 B-O-G-A-N. Thank you for your time this morning.

16 As I said, my name is Tom Bogan and I'm the sales
17 manager for Stone Container Corporation's corrugated
18 container plant here in Los Angeles. We appreciate the
19 opportunity to comment on APHIS' proposed interim rule for
20 solid wood packaging materials from China.

21 Stone Container Corporation is the largest
22 manufacturer of paper packaging materials in the world. Our
23 products include corrugated shipping containers, and all
24 corrugated shipping pallets. We're a multi-billion-dollar
25 forest products company that depends on trees and healthy
26 forests for our raw materials.

27 The Asian longhorned beetle poses a significant
28 threat to these forests. In addition, because Stone
29 Container produces paperboard packaging materials that

1 cannot harbor the beetle, we have a unique opportunity to
2 provide a solution to the beetle threat.

3 Stone Container's international headquarters are
4 in Chicago, where we have become intimately familiar with
5 this beetle. During the weeks around Thanksgiving this year
6 teams of tree trimmers will work their way through the
7 streets of Chicago's raven-wood neighborhood, not to trim
8 the trees, but to cut everyone of them down to the stump.
9 The trees wood will be chipped and incinerated, leaving the
10 neighborhood treeless, solely to solve this one problem: an
11 infestation of Asian longhorned beetles.

12 This local infestation of the beetles from China
13 has infected hundreds of trees and has created a demand for
14 solutions to stop the contaminated wood packaging materials
15 from entering this country. The migrating beetles still
16 threaten hundreds of trees in the Chicago area, and several
17 other cities where outbreaks have occurred. If not
18 contained, this beetle could threaten our nation's forests
19 on a broad scale, and this is critically important to the
20 forest products companies, like our own.

21 The U.S. Department of Agriculture confirms wood
22 shipping materials carry the beetle. It's larvae is
23 transported in untreated wood used for pallets and crates.
24 When the adult beetle emerges they burrow into nearby trees.
25 There is no known way of stopping this beetle from killing
26 the host tree, where it lives and lays its eggs.

27 As of September 30th, 1998, state and federal
28 outlays approached five million dollars to eradicate these
29 infestations.

1 Stone Container supports APHIS' proposed
2 requirements for heat treatment, fumigation, or preservative
3 treatment of solid wood packing materials prior to departure
4 from China. In addition, Stone Container recommends that
5 APHIS educate and encourage freight forwarders, and
6 importers, to use alternative non-wood packing materials to
7 reduce the risk of pests, plant pests, entering the United
8 States.

9 "Corrugated boxes and corrugated shipping pallets
10 are a viable alternative," say the experts familiar with
11 this danger posed from the Asian longhorned beetle.
12 Attached you'll see a letter from the USDA. And I've also
13 attached a letter from Australian quarantine inspection
14 service.

15 As the world's largest manufacturer of corrugated
16 pallets and shipping containers, we are able to respond to
17 concerns about bringing additional wood-boring pests into
18 the United States. Stone Container has manufacturing
19 facilities in China that are currently manufacturing
20 corrugated pallets and corrugated shipping platforms. It's
21 also in Hong Kong.

22 Stone Container has thousands of customers in the
23 United States that import products from China and we are
24 educating these companies on the benefits of the corrugated
25 versus untreated wood packaging. Our company continues to
26 receive confirmation that corrugated shipping containers and
27 pallets are a viable alternative to wood, and would help
28 prevent the destructive beetle from entering the United
29 States.

1 In summary, Stone Container fully supports APHIS'
2 legislation restricting the importation of unmanufactured
3 wood products. Furthermore, Stone Container believes that
4 APHIS should certify the use of alternative packaging
5 products, such as corrugated containers that don't pose a
6 risk.

7 Stone Container is eager to work with APHIS to
8 demonstrate the utility and availability of these paperboard
9 products that can supplement or replace the current solid
10 wood packing material, both on an interim and on a longterm
11 basis.

12 I thank you for this opportunity to provide input
13 to APHIS' decision-making process, and we look forward to
14 establishing a cooperative working relationship. Any other
15 information you may need you can contact Clete Thompson, the
16 marketing and communications manager for Stone Container, at
17 1-800-808-0400.

18 And you do have the USDA letter. I'm not sure
19 that everybody is aware of the Australian quarantine letter.
20 Any other questions from anybody, I'd be glad to take any.
21 Thank you for your time this morning.

22 MR. LIDSKY: Thank you, Mr. Bogan.

23 Our next registered speaker is T.A. O'Neill.

24 MR. O'NEILL: Actually, it's Terry O'Neill,
25 Terrance when my mom's upset. That's O, apostrophe, capital
26 N, E-I-L-L.

27 We're a U.S. Customs broker here in Los Angeles
28 and, as you know, we are the middleman between the importer
29 and Government agencies and often times share the brunt of

1 delays, et cetera. And I've got a few questions here
2 that -- not statements, but questions, clarifications -- the
3 first being: Has a format been determined for certification
4 from the Chinese government that the materials have been
5 treated?

6 Now, I realize a fumigation certificate is
7 indicated, but I think I'm more -- the question being, as
8 far as a vendor statement that there is no wood packing
9 material present.

10 I think any time that you leave something open to
11 interpretation that often times you can run into some
12 difficulties. We're dealing with importers who are working
13 with letters of credit, et cetera. It might be something to
14 consider that a fixed format be utilized for the vendor
15 statements regarding the lack of wood packing materials.

16 The second being: In what manner will the
17 information or documentation regarding a shipment be
18 presented to each local office -- via fax, hard copy? Will
19 the documentation be accepted in advance of the vessel's
20 arrival?

21 The next thought being: Can an improved or
22 abbreviated form of information on the carrier manifest be
23 utilized by APHIS, with notations regarding the type of
24 packing material? And have the carriers been consulted?

25 You know, I believe, and it's always been my
26 understanding that the inbound carrier's manifest is one of
27 the main tools that the Agency uses. And possibly some
28 improvement or changes to the inbound carrier's manifest,
29 with some sort of notations or abbreviations, might be real

1 useful.

2 The next thought being: What considerations have
3 been given to congestion issues, capacity issues, staffing
4 issues, both within APHIS and others involved in the
5 logistics process?

6 The next thought being: What direction would
7 APHIS give to importers who discover that they have infested
8 solid wood packing material within their facilities? What
9 steps should they take, notification, et cetera?

10 The length of time issue was addressed. It's
11 open. That would be the next thought.

12 The next being: Will the Agency accept a blanket
13 list of suppliers from importers in advance that will
14 indicate whether or not they utilize solid wood packing
15 material in order to expedite the process and the releases?

16 And lastly being: Is the Agency willing to
17 conduct onsite reviews with importers who desire to have
18 their quality control steps reviewed in order to insure
19 compliance and gain blanket release of their import product?

20 Thank you.

21 MR. LIDSKY: If you would like answers to these
22 questions now, we would be prepared to give you that.

23 (Pause.)

24 MR. REEVES: Why don't you stay up here? Because
25 we might need a little help on those questions.

26 MR. O'NEILL: Sure.

27 MR. REEVES: If I understood the first thing that
28 you asked, you were talking about a standard statement.

29 MR. O'NEILL: Well, I'm speaking in reference, not

1 to the fumigation certificate, but the vendor certification.

2 MR. REEVES: Okay. In fact, what's required is a
3 statement that there's no solid wood packing material. And
4 it's been left open for a lot of reasons, and one of which
5 you sort of brought up yourself.

6 We've left open the possibility of incorporating
7 it into the manifest, and that would be a possibility. So
8 we didn't want to really lock down and say, "It has to be a
9 statement signed this way," because if we went with the
10 manifest system that you brought up yourself, that would be
11 a way to expedite the whole thing. So that was one reason
12 we don't have at this time a standard statement. But you're
13 not the only person who has commented that we should have a
14 standard statement. And it's something that we are
15 weighing.

16 MR. O'NEILL: The importers or, rather, I should
17 say vendors, are real good at repetition and if they're
18 given something that -- you know, it's form 1, 2, 3, and
19 it's got to be with every -- you know, it's an LC
20 requirement, they can understand that and follow that,
21 versus a statement that might be on this area of the
22 invoice, or that area of the bill of lading, and it gets
23 confusing. It gets tough.

24 The manifest -- let me ask. Do I understand
25 correctly that is one of the main tools that the Agency
26 uses?

27 MR. REEVES: Yes, it is.

28 MR. O'NEILL: Those are fairly abbreviated -- you
29 know, maybe two lines per BL. And I'm wondering if, you

1 know, so as to keep those from turning into, you know,
2 dictionaries, that coding of some type be used. It's a
3 thought, in conjunction with discussions with the carriers.

4 MR. REEVES: Right. And we have had carriers at
5 our other meetings, and we may have carriers represented
6 here today that I don't know. But we have -- we've talked
7 to carriers. So that is something that's being explored and
8 it's something we've had other comments on. But the
9 statement is simple. We're looking for a very simple
10 statement that says that there's no solid wood packing
11 material associated with the shipment.

12 MR. O'NEILL: Yes or no.

13 MR. REEVES: Right. Advanced -- would we accept
14 it in advance? Almost certainly. In fact, we would
15 anticipate that happening. And if it were to be
16 incorporated into a manifest, many of the manifests are
17 received in advance.

18 MR. O'NEILL: Would that advance -- meaning that
19 you would receive one of two documents, either a fumigation
20 indicating it would have to have, obviously, vessel name,
21 BL, container, et cetera. That would be the first document.
22 Second being that exporter's statement with the same
23 references on it?

24 MR. REEVES: I'm not sure I --

25 MR. O'NEILL: The exporter's statement that no
26 solid wood packing material is present.

27 MR. REEVES: Yes.

28 MR. O'NEILL: One of the two in advance?

29 MR. REEVES: One of the two. In addition to this,

1 we are working with U.S. Customs Service, hopefully to
2 incorporate a data field in their brokers' -- when brokers
3 advance files electronically.

4 We're exploring that to see if we can have a field
5 where you can make a statement at the time of -- when you're
6 making an advanced entry. And that has not been completed
7 yet because we're now dealing with folks that will have to
8 change the programs. And we understand that getting them
9 out to all the brokers in the field could be a lengthy
10 process.

11 MR. O'NEILL: Not to mention the broker liability
12 involved.

13 MR. REEVES: But we are investigating that.

14 MR. O'NEILL: Okay.

15 MR. REEVES: And the third question was -- okay.
16 We've sort of touched on the third question.

17 MR. O'NEILL: Right.

18 MR. REEVES: We certainly are open to suggestions
19 and comments concerning putting it on a manifest -- the
20 statement as to whether or not there's solid wood packing
21 material associated with the shipment.

22 MR. O'NEILL: Right.

23 MR. REEVES: As to your issue as -- have we looked
24 at congestion, capacity issues, staffing issues, the answer
25 is "yes", we are looking at them. Do we have all the
26 answers to that? I would be -- I don't think I can say,
27 "Yes, we have all the answers at this time."

28 What we are doing is we're surveying all our
29 ports. And, quite frankly, as you probably -- most people

1 in this room are probably aware that Long Beach
2 is -- receives almost half the Chinese cargo. So it would
3 be an issue here. We are surveying our ports. We're trying
4 to determine their staffing needs, if they need additional
5 people for this, if the facilities are adequate to do
6 additional inspections.

7 And we're doing that right now with the intent
8 being that at least initially the possibility exists that we
9 will be able to send people on short-term assignments to
10 locations that might be caught short on staff, at least
11 initially until -- because we anticipate that compliance
12 will come and it will come relatively quickly, and a lot of
13 this will get worked out.

14 MR. O'NEILL: In reference to that, I assume that
15 part of the reason why the importers will not be allowed to
16 retain the product here and have it fumigated, rather, it
17 will be refused and have to be exported or destroyed, is
18 because of the lack of fumigation facilities.

19 MR. REEVES: That's one of the considerations. We
20 didn't want this to become a situation where we
21 were -- things were just going to be shipped to us to be
22 fumigated.

23 MR. O'NEILL: Right.

24 MR. REEVES: What are the chemicals that are
25 acceptable for use in treating the wood materials? I
26 believe that if everyone picked up the fact sheet that was
27 available back there --

28 MR. O'NEILL: It does mention that. I think the
29 reason I put that in there -- and it was poorly

1 worded -- was I heard that methyl bromide might be, at some
2 point in time, eliminated from the possibilities.

3 MR. REEVES: That's an ongoing thing, that methyl
4 bromide -- and I think the latest thing was the --

5 MR. CAMPBELL: The Montreal protocol.

6 MR. REEVES: -- Montreal protocol, which would
7 call for it --

8 MR. CAMPBELL: Well, it's an ozone-depleting
9 chemical. So the Montreal protocol calls for its
10 elimination of use in developing countries.

11 The Environmental Protection Agency has what's
12 called the Clean Air Act, which called for the elimination
13 of the use of methyl bromide by 2001. And this year I think
14 in the last farm bill we brought the -- that elimination
15 date in line with the Montreal protocol. So it's looking at
16 2005 now. That, we hope, isn't an issue for, you
17 know -- that we have to deal with on this interim role.

18 MR. REEVES: And your last question, if I
19 understand it, is: What direction would APHIS give to
20 importers who discover that they have infested solid wood
21 packing material within their facilities -- steps, et
22 cetera?

23 If you're asking -- if I understand the question,
24 you're saying that if, as an importer, you realize that you
25 have wood material that literally has the pest in it --

26 MR. O'NEILL: Right.

27 MR. REEVES: -- and what advice that we would give
28 you. Well, we would certainly -- I mean, we would ask you
29 to notify us, and at which time we would come and evaluate

1 the situation, take appropriate steps. And that's going to
2 vary depending on what really the circumstances are -- local
3 office, yes. Yes, your local PPQ office.

4 The kinds of things that we look at is: Is it
5 still confined inside the warehouse? Do we have trees
6 infested around the warehouse? It would be very difficult
7 to say exactly what would happen at this time, but we would
8 evaluate it and take appropriate action.

9 Almost certainly the packing material would have
10 to be destroyed. I'm not sure -- the other actions would
11 depend on the circumstance.

12 One other thing that I don't know whether I
13 covered -- oh, there are other questions. Okay. Excuse me.

14 For what length of time does the Agency estimate
15 the enforcement action will last? Well, this interim
16 rule -- we anticipate this interim rule staying in effect
17 until there is a comprehensive packing material worldwide
18 regulation.

19 MR. CAMPBELL: As we speak, we're developing
20 what's called an advanced notice of proposed rule making
21 that solicits comments from the public and from industry on
22 how to fix this problem with solid wood packing material as
23 a pathway, and from all countries. Right.

24 We're taking these emergency actions against
25 Chinese solid wood packing material because of the immediate
26 threat that we've found. But our direction has always been
27 to try and fix this problem. It's always been a higher risk
28 pathway.

29 So the advanced notice of proposed rule making is

1 being drafted. We hope to have it published before the end
2 of this year or early next year. When we receive those
3 comments we'll be able to develop a proposed rule on how to
4 fix the problem, where we would propose to set out certain
5 phytosanitary conditions upon which solid wood packing
6 material can be used, or solid wood packing material can be
7 imported into the U.S. from all sources in the world.

8 That's been our goal and we were trying to be more
9 methodical in fixing this problem, but, again, these
10 outbreaks in Chicago and New York forced our hand and we had
11 to do something immediately.

12 So we expect that these measures will be in place
13 until we're able to address the situation worldwide, which
14 is, in a nutshell, probably two, three years, we hope.

15 MR. REEVES: Will the Agency accept a blanket list
16 of suppliers from the importer in advance that will indicate
17 whether or not they utilized solid wood packing material in
18 order to expedite the process/release? At this time that
19 would not be -- that's not a part of the interim rule.

20 We've had other comments in this area and we
21 certainly will consider those comments. But at this time
22 that would not suffice. We would not just have a blanket
23 statement.

24 Is the Agency willing to conduct onsite reviews
25 with importers who desire to have their quality control
26 steps reviewed in order to assure compliance and gain
27 blanket release of their import product?

28 You might have to help me a little bit.

29 MR. O'NEILL: Well, it's basically the same. If,

1 upon your review, it's found that they have the steps in
2 place at origin, as well as at the receiving facility, their
3 people are trained, et cetera, would they, in turn, be given
4 some leniency, I guess I'd say.

5 (Pause to confer.)

6 MR. CAMPBELL: On the export side, in China we are
7 sending a plant quarantine specialist to work with the
8 Chinese government to help them get or gain compliance with
9 these new requirements. He's going to be touring the
10 different ports and he's going to be working with plant
11 quarantine officials in China to let them know what's
12 expected as far as fumigation and what's going to happen in
13 the U.S. if the shipments -- if the wood isn't properly
14 treated.

15 So that's kind of unprecedented for us, you know.
16 When we pass a regulation we basically, you know, say, "Here
17 is the regulation. Comply with it." But we're doing
18 everything we can to help the Chinese because we understand
19 the magnitude of what we're asking.

20 So he is going to be in China for at least four to
21 five months, working with exporters, industry groups, and
22 the government of China to help them gain compliance. Does
23 that answer your question?

24 MR. O'NEILL: Yes, it does.

25 MR. REEVES: There is one other thing I sort of
26 skipped over when I was talking to you about the manifest,
27 and you -- I think part of that question -- you were asking
28 where to put the statement.

29 And what I would say to you is, especially if you

1 know which port -- port of entry you're using -- is I would
2 talk to the local PPQ people and ask them, "What would
3 expedite it the most? What method would be the best?"
4 Because we do -- as you probably know, we have different
5 systems of working with Customs and brokers in almost every
6 port. I mean, they're similar, but there's always quirks
7 and differences. So I would say to you: Talk to the local
8 PPQ folks and work out where the best place in Los Angeles
9 or Long Beach is.

10 MR. CAVEY: And we might add to that -- that
11 that's part of the reason we left it open as we did. The
12 statement and how you prepare the statement and how you do
13 it -- is so that you can do it best to expedite in your
14 individual port because these systems vary so much.

15 MR. O'NEILL: Okay. Thank you very much.

16 MR. LIDSKY: Thank you. Our next speaker is Mr.
17 Ken Holden, please.

18 (Pause.)

19 MR. HOLDEN: Good morning gentlemen -- ladies and
20 gentlemen. My name is Ken Holden. I'm with Bureau Veritas.
21 We're an international inspection agency that -- with
22 representation in over 160 countries throughout the world.

23 I have addressed our statement to the USDA, Mr.
24 Dan Glickman, Secretary of Agriculture in Washington, D.C.

25 "Dear Mr. Secretary: The
26 nature and seriousness of
27 this pest to our national
28 resources require an
29 immediate and thorough

1 action, both in China and
2 all US ports of first
3 arrival. We commend the
4 implementation of the
5 interim regulation and
6 offer the following three
7 suggestions:

8 1. The Chinese
9 exporter's invoice
10 statement regarding the
11 solid wood packing
12 material should be in
13 English to assist in
14 clearance.

15 2. Other Asian countries
16 should be monitored for
17 the presence of this and
18 other dangerous pests.

19 3. Since landfills in
20 the port cities receive
21 hundreds of thousands of
22 pallets, they should also
23 be monitored on a very
24 frequent basis.

25 We stand ready to
26 mobilize all of our
27 international
28 capabilities and assist
29 in any manner to help

1 resolve this rapidly
2 expanding crisis. Best
3 regards, Ken Holden."

4 That's it.

5 MR. LIDSKY: Thank you.

6 MR. CAVEY: Mike, I have one comment. Very good
7 comments about monitoring. One of the things that we do is
8 to continually look at cargo from all areas of the world,
9 and that serves as a monitoring system for us, and has for
10 many years.

11 On top of that, we -- as part of the proposed
12 rule, that Mr. Campbell brought up a few moments ago, we are
13 conducting a pest risk assessment for wood materials from
14 all sources that also looks at what danger is out there,
15 what impact would there be, and what's the likelihood that
16 these things can enter and establish in our country. So
17 that's another provision that we utilize to more or less
18 monitor the situation and to make strategic plans around
19 what we need to do down the future -- down the road.

20 (Pause.)

21 MR. LIDSKY: Our next speaker is Ms. Estella
22 Lopez -- it looks like -- Baum.

23 MS. BAUM: Good morning. My name is Estella
24 Lopez-Baum, and that's spelled L-O-P-E-Z, dash B, as in boy,
25 A-U-M, as in Mary.

26 I'm compliance manager for Expeditors
27 International, which is a Customs house broker, and these
28 questions -- we have gotten these questions from our
29 clientele of importers, originating from China and Hong

1 Kong. And I'm presenting this to you for clarity in order
2 for our clients to comply with the rules. And I have ten
3 questions.

4 The first question has already been asked by Mr.
5 O'Neill, and basically that's the exporter's statement. And
6 I think you've given the answer that no SWPM associated with
7 the shipment would be sufficient.

8 My second question is the same as Mr. O'Neill,
9 which is the blanket statement of SWPM usage in packing.
10 And you mentioned that that would not be sufficient for the
11 interim rules.

12 Third question: What government agency in China
13 will issue the SWPM certificate?

14 MR. CAMPBELL: Do you want us to answer these
15 individually so we don't have any confusion?

16 MS. BAUM: Sure. Okay.

17 MR. CAMPBELL: The answer to your third question
18 is what government agency in China will issue the solid wood
19 packing materials certificate. And the one confirmed
20 ministry that we expect certification from is their ministry
21 of agriculture. It's CIQ. And there's a sample of a
22 treatment certificate in the Q&A's that's issued by CIQ.

23 We are not sure if there will be other ministries
24 designated by the Chinese to issue treatment certificates.
25 A treatment certificate from Hong Kong will probably not
26 come from CIQ because they have a different inspection plant
27 quarantine service in Hong Kong.

28 So there probably will be an added ministry from
29 Hong Kong issuing certificates. That has not been made

1 available to us yet, but when all this information does
2 become available, we'll post it on the world-wide web on our
3 website to -- that's proven to be the most effective way of
4 getting the information out there.

5 MS. BAUM: Okay.

6 MR. CAMPBELL: So, like I said, the only confirmed
7 ministry right now is the ministry of agriculture in China,
8 but we expect there may be more.

9 MS. BAUM: Okay.

10 MR. CAMPBELL: And that's one of the reasons we
11 left that open as well, because it is such a huge task to
12 certify these shipments. It may be too much for one
13 ministry to handle and there may be other designated
14 ministries to help.

15 MS. BAUM: My question number four is: Will the
16 USDA require treatment facilities in China to be U.S.
17 certified or approved?

18 MR. CAMPBELL: Not specifically, no. We will work
19 with the Chinese government, Marshall Kirby, or the
20 inspector that is going over there will work with the
21 government of China and he'll be making more information
22 available. But we are not specifically certifying each
23 treatment facility personally with the USDA.

24 MS. BAUM: Okay. Question number five: How will
25 the fumigation be conducted? Is it going to be per pallet,
26 per container? And we have been informed by our Hong Kong
27 office that in some of the warehouses they are thinking that
28 the fumigation would probably be done by container, not by
29 pallet.

1 MR. REEVES: Again, that's left open in the
2 interim rule. I would envision that many of them may be
3 done by container. It would be possible the way the rule is
4 written that you could fumigate large quantities of solid
5 wood packing material and keep them safeguarded. And that's
6 covered in the rule also -- keep them safeguarded in such a
7 way that you could then use them to ship various cargoes
8 with. So that there's flexibility there.

9 MR. CAMPBELL: And fumigation is only one option.
10 Heat treatment is another option. And, obviously, you can't
11 heat treat pallets when they're in a container. So they
12 would have to be heat treated individually -- yeah, prior to
13 loading.

14 MS. BAUM: So when you are loading the container
15 typically there would be pallets that get loaded in the
16 container. So each of those pallets -- they need to be
17 treated and then --

18 MR. CAMPBELL: No. Each pallet doesn't require a
19 certificate. Is that what you're asking?

20 MS. BAUM: No, not really, because, you know, if
21 you have a situation where you have a consolidation of
22 shipments and, you know, your shipper tenders a number of
23 cartons, let's say, and then, in turn, the carrier is going
24 to pelletize those, shrink wrap them and stuff, and, you
25 know, what they're envisioning is that sometimes, you know,
26 the pallets are not going to be treated. So what they would
27 like to do is probably fumigate the entire container, you
28 know, so that it covers both treated and untreated pallets
29 that are going into the container.

1 MR. CAMPBELL: Right.

2 MS. BAUM: So they're just thinking that the most
3 practical thing to do is fumigate the entire container.

4 MR. REEVES: That would be acceptable.

5 MS. BAUM: Okay. Now, how would the certificate
6 look like then?

7 MR. CAMPBELL: It would be a certificate,
8 probably, for that container and we would -- like Dave said
9 earlier, we are accepting -- we are accepting copies. So it
10 would be a copy with each -- a certificate with that
11 shipment for that container.

12 MS. BAUM: So then if you have -- if the Chinese
13 government signs off on one treated container, okay, and you
14 only have one original certificate, and you have, let's say,
15 ten importers in the United States --

16 MR. CAMPBELL: Off one container?

17 MS. BAUM: -- for that one container, what are the
18 importers here supposed to have?

19 MR. CAMPBELL: The importers should have at least
20 a copy of that certificate that says that container
21 was -- when that Customs entry is presented to Customs, then
22 a copy of that certificate should be present in that entry.

23 MS. BAUM: Okay. So a copy of the original would
24 be sufficient?

25 MR. CAMPBELL: Yes.

26 MS. BAUM: And then how do you envision that
27 original certificate? Who's going to tender that? The
28 carrier will tender that to Customs, USDA, or --

29 MR. CAMPBELL: Okay.

1 MR. REEVES: This comment has been made to us also
2 and it may be something we have to look at. It is possible
3 that we might have to -- we certainly will consider the
4 comment as to whether or not each shipment inside a
5 consolidated shipment needs a certificate. And that's come
6 up before.

7 MR. CAMPBELL: If -- you know, the fact that we're
8 accepting copies is just for this reason, because we
9 understand there may be one fumigation for numerous
10 shipments.

11 So as long as the importer is able to secure a
12 copy of that fumigation certificate, and, you know,
13 we're -- the inspectors are able to link that certificate to
14 that container, then we're sure that the pest risk is
15 eliminated and we'll be able to release the shipment.

16 MR. REEVES: But, operationally-wise, it may
17 be -- it may be just as easy for whoever does the initial
18 certificate in China to issue ten and sign ten originals if
19 there were ten different shipments in the container. And
20 that might expedite the movement, by having each -- each
21 entry package then would have a certificate -- have a
22 document.

23 MS. BAUM: Okay. I'm speechless because I think
24 the mechanics of this all is going to, you know, be slightly
25 chaotic, you know, because, you know, as a shipper, when
26 you're in China, and then you're an importer over here, I
27 mean, how do you know what they do when -- you know, when
28 they fumigate the container and where the certificates go
29 and, you know, how that's going to be distributed and things

1 like that.

2 So it's just -- it's a big concern for our office
3 in China, you know, because we do -- there are a lot of
4 shippers, small shippers, you know. We don't even worry
5 about the high volume importers because they own the
6 containers, you know, they have all of their shipments
7 there. But for the small importers, you know, it sounds
8 like it's going to be, you know -- it will pose a challenge.
9 So -- I mean, just so you know, because we deal with
10 operations on a daily basis.

11 So -- and my number six question kind of ties in,
12 you know, to my fifth question, and that is: How will the
13 USDA enforce the rules, given the huge volumes of imports
14 from China? And you kind of touched on that a little bit.
15 And I realize that you're serving your staffing and all
16 ports and such.

17 A secondary question to that is: What criteria
18 will be used to initiate an examination of merchandise?

19 MR. REEVES: Okay. Initially, I think, the first
20 thing we will look for would be shipments that were unable
21 to produce either document. If you have a shipment that
22 comes in and you have neither an exporter's statement that
23 says that you have no solid wood packing material, or you
24 don't -- or you're unable to produce a fumigation
25 certificate from the Chinese government. So those -- all of
26 those -- all shipments that would fall into those categories
27 of having neither one of those, we will attempt to look at.

28 MS. BAUM: Okay. So then you mentioned something
29 about the ABI transmission and that's a day in the life of a

1 broker, you know. You have a shipment from China.
2 Sometimes you prefile it. You have a five-day window that
3 allows you to, you know, prefile an entry prior to the
4 vessel arrival.

5 So I transmit that and, you know, you mentioned
6 something about modifying the ABI system to accommodate a
7 statement. Just so you know, the ABI system has been
8 crashing. So, I mean, it's just like -- what other options
9 are you thinking of besides having the modification of the
10 ABI software to accommodate that statement?

11 MR. REEVES: Some other options that we're
12 considering with Customs is something that they call
13 informed compliance, which -- and, again, I heard a chuckle
14 back there. I'm not that familiar with this system, but the
15 way Customs explained it to me would be that informed
16 compliance -- the simple act that you make entry would tell
17 us that you're saying that, "I have the paper."

18 And Customs would periodically monitor certain
19 brokers. And they would just call you up and say, "We see
20 that you made entry on these three shipments," and just by
21 the fact of you making an entry you're telling them that you
22 have a document.

23 MS. BAUM: Well, right now, sir, there is no
24 accommodation in the ABI, which is the electronic system,
25 that would allow Customs to view that you have or don't have
26 the statement.

27 MR. REEVES: Okay. That's how this system would
28 work. Literally --

29 MS. BAUM: And I think what they're just saying is

1 that, "We'll just pull your shipment for examination." I
2 think --

3 MR. REEVES: Not necessarily. I mean, we may
4 pull -- we, PPQ, local PPQ -- well, let me back up a little
5 bit.

6 Local PPQ will pull a certain percentage of these
7 shipments for monitoring, whether they have an exporter's
8 statement or whether they have a treatment certificate. We
9 will pull some of those for monitoring. It should be a
10 relatively small percentage, but we will pull them and look
11 at them.

12 In addition to that, Customs is telling us that
13 they have the capability of one system of entries that they
14 use is something called informed compliance, in which case
15 they would tell the brokers that, "You can make entry. You
16 don't have to make any documentation at all on the entry
17 that you have." This document -- this document being the
18 treatment certificate from China.

19 The simple fact that you make the entry, you're
20 telling Customs, without checking anything -- that you're
21 telling them that you have one of those two pieces of paper,
22 or access to one of those two pieces of paper. Just when
23 you make the entry you're saying, "It's not written on that
24 entry, but I have it. And if you call me up and ask for it,
25 I will be able to produce it."

26 MS. BAUM: Okay. Okay. On the presentation of
27 documents, I have read in the news that the certificate must
28 come with the shipment. And somebody asked me, "Can we
29 visualize that we're stapling that certificate on the side

1 of the box, or tape it on the shrink-wrap pallet?" And I
2 noted to them that in the news also it did say that you will
3 accept a pallet that's labeled "China treated" or
4 "fumigated" or some such similar language.

5 So do you foresee -- Mr. O'Neill mentioned the
6 manifest. And, you know, in the manifest, you know, like
7 you would have maybe the manifest attached with it, you
8 know, like certificates, either the vendor or exporter's
9 statement, or the actual fumigation certificate attached to
10 the manifest, or, you know, like -- like we were thinking
11 of, you'd literally have to paste the certificate on the
12 pallets themselves or on the boxes inside the container, if
13 not pasting it outside of the container if the container is
14 the one that's fumigated.

15 MR. CAMPBELL: We've stated already that we will
16 accept an advance copy of the certificate. When we say it
17 has to go with the shipment, it has to be -- it has to be
18 with the paperwork presented for inspection. It doesn't
19 actually physically have to be with the shipment or inside
20 the container.

21 If you did put a copy inside the container, that
22 could be a secondary assurance that there is a certificate
23 associated with that shipment.

24 The section in the regulation that talks about
25 "China treated," again, that has to do -- that's more or
26 less a secondary assurance. If there is some mixup with the
27 paperwork, that we anticipate there will be quite a bit of,
28 and you as a broker assure an inspector that the wood inside
29 that shipment is treated but there was a misplacement of the

1 certificate somehow, an inspection of that shipment showing
2 pallets that say "China treated" on there will help your
3 case.

4 So that -- the fact that the pallets are marked
5 "China treated" doesn't mean that there shouldn't be a
6 certificate with that shipment. There should be a
7 certificate with every shipment. But it serves two
8 purposes. It gives us that added assurance, plus it shows
9 China -- if these pallets were to return to China, it shows
10 the Chinese government that these pallets were treated the
11 last -- the last time they were exported from China, and
12 they can certify those pallets based on that marking.

13 MS. BAUM: Okay. My question number seven is:
14 Can shippers fumigate several pallets at one time and use
15 them as merchandised shipped from origin? And your Q&A have
16 answered that.

17 But if the Chinese government certifies for these
18 pallets, let's say 50 of them, and the USA requires original
19 signature as the shipment arrives in the U.S., what does the
20 USDA expect in this situation where you only use five
21 pallets and you have 45 left behind in your warehouse in
22 China?

23 MR. REEVES: I would envision that the treatment
24 document would not give a count on the pallets. I don't
25 think that there would be a specific count that 20 pallets
26 were fumigated, or six pallets were fumigated. I would
27 envision that someone in China would fumigate a roomful of
28 pallets, or 500 pallets. They would issue a fumigation
29 certificate for those. Or they may issue ten, or 20. I

1 mean, that would be -- that's an operational thing that's
2 going to be, you know, in China.

3 But if you were going to break -- if you fumigated
4 100 pallets and broke them down into four shipments of 25
5 each for containers, each container, if they were different
6 shipments, should have a treatment certificate. But the
7 treatment certificate would not have to show 100 pallets
8 treated. It should just say that solid wood packing
9 material in this shipment has been fumigated in accordance
10 with the schedule that's listed in the Q&A's.

11 MS. BAUM: I saw a sample of, you know, this
12 fumigation certificate that you anticipate to get from the
13 ministry of agriculture and it's very specific about, you
14 know, it gives shipping information.

15 And so, you know, we have high volume importers
16 who do have, you know, like trading companies in China and
17 in Hong Kong and this is a big issue for them because they
18 foresee that they will fumigate numbers of pallets, but
19 they're going to use them, you know, as they need them.

20 So if they're going to be issued one
21 certificate -- so are you saying then that they need to get
22 a fumigation certificate as they use those pallets?

23 MR. REEVES: Well, if you were sending -- I would
24 envision if you were sending three unrelated shipments -- if
25 you were sending a shipment this month, two months from now
26 you're sending a second shipment, and a month after that you
27 were sending the third shipment, yes, they should -- there
28 would have to be a fumigation certificate with each
29 shipment.

1 MS. BAUM: Regardless of when that fumigation took
2 place?

3 MR. REEVES: Yes.

4 MS. BAUM: Okay. So it's -- I just want to
5 understand this very clearly so I could communicate this to
6 our clients. So what you're saying is that you fumigate.
7 You get a certificate. But each time you pull from your
8 pallet inventory for use for importation into the U.S., you
9 need to get another certificate.

10 MR. REEVES: Yes. And the way the interim rule is
11 written right now, that is true. But like I mentioned
12 earlier, we have had comments about this. So it's certainly
13 something we could consider as a comment -- of some sort of
14 package.

15 MS. BAUM: Okay. And does the Chinese
16 government -- you know, they know that this is going to
17 happen? You know, because we've had one of our high volume
18 importers go to, you know, the minister of agriculture. Of
19 course they said that they were still not clear on what the
20 rules are. And that was one of the questions that they had.

21 And the response was that they don't envision, you
22 know, doing, you know, one certificate and then recertifying
23 as you use the pallets. So it might just be something that
24 Mr. Kirby may want to take to China, you know, so that it's
25 made clear.

26 MR. CAMPBELL: That's good. He's aware of this
27 situation. And, again, if there are large volumes of
28 pallets being treated and they're treated and marked
29 "treated," then it would be easy for the inspector in China

1 to issue a certificate based on that marking.

2 MS. BAUM: Okay. On question number eight, with
3 regards to the inspection fee, it says in the interim rule
4 that there will be an inspection fee charged if the shipment
5 is examined and found not to have a certificate.

6 How do you see prorating these charges of
7 examinations conducted on a vessel or container?

8 MR. REEVES: Please repeat. I'm sorry.

9 MS. BAUM: You have the inspection fee. And
10 supposing -- do you envision doing a vessel or container
11 examination? Is that, you know, something that you're
12 planning to do as part of your examination? You just kind
13 of isolate a container, maybe, and just kind of look at, you
14 know, all of the shipments in there?

15 MR. REEVES: Yes.

16 MS. BAUM: Okay. And so if some of those were not
17 certified, how is the inspection fee going to be prorated?

18 MR. REEVES: You're talking about a consolidated
19 shipment.

20 MS. BAUM: Right.

21 MR. REEVES: If the container was consolidated and
22 a portion -- and a portion of the shipments that were inside
23 the container were certified and some were out of
24 compliance. Okay. What would happen would be that everyone
25 who is -- no one would have to pay a portion of the
26 inspection fee that were in compliance. So it would not be
27 prorated. Only the shipments inside the consolidation that
28 were out of compliance would bear the brunt of paying for
29 the --

1 MS. BAUM: So if I am a non-compliant
2 shipper -- so how am I going to get charged for that?

3 MR. REEVES: The importer would get charged -- of
4 your shipment.

5 MS. BAUM: Okay. So whatever time --

6 MR. REEVES: And I would assume that the importer
7 would bring that back to you.

8 MS. BAUM: Okay. And what would that fee look
9 like? Is that going to be, like, \$56? I mean, I know there
10 was a range, \$56 to \$74 per hour, depending on -- I think
11 the one that our importers are asking about is the phrase
12 that says, "Depending upon the examination," or the time
13 that it took to examine.

14 MR. REEVES: Right.

15 MS. BAUM: So there's just concern that if, you
16 know, they get a billing, how would they justify that to
17 their accounting types, or something? Or is there some kind
18 of, you know, measurement as to how this is going to be
19 charged to the importer?

20 MR. REEVES: By the hour or a portion of the hour,
21 and we will ask our folks to keep as best record as possible
22 as to the amount of time it takes to do that particular
23 shipment.

24 There can be -- we feel that there can be a great
25 deal of difference in the amount of time it takes to do some
26 of these shipments. You might be dealing with a shipment
27 that's out of compliance and it only has pallets, and
28 pallets are more compact, easier to deal with, and it might
29 not take very long at all.

1 Or you might have a shipment that's out of
2 compliance that has a lot of dunnage and blocking and
3 bracing that may take a long time to deal with.

4 MS. BAUM: Okay.

5 MR. CAMPBELL: The user fee for certain
6 international services is referenced on the very last page.
7 In fact, it's the last column of the document and it may
8 clarify some of this for you.

9 MS. BAUM: Of the fee?

10 MR. CAMPBELL: Yeah. It gives figures.

11 MS. BAUM: Okay. Have you identified a warehouse,
12 you know, place where if there's SWPM and it was untreated
13 packing, where you could isolate the shipment and then maybe
14 destroy the packing material? Have you identified a
15 warehouse in the different ports where that's going to take
16 place?

17 MR. REEVES: We are working with our different
18 ports right now to determine whether there are options like
19 that that might be available in the port. Let me just say
20 this up front. It would not be the USDA that would furnish
21 the warehouse. We would be anticipating port authorities
22 maybe working with shippers or shipping lines or brokers or
23 other groups of people that are concerned about having a
24 place.

25 But we would certainly encourage our local ports
26 to look at options such as that.

27 MS. BAUM: Okay. Now, my number nine
28 questions -- and I'm getting close to the end. What kind of
29 commitment has the USDA gotten from the Chinese government

1 in terms of these rules? Are they committed?

2 MR. CAMPBELL: Committed to what? To complying?

3 MS. BAUM: To complying. To assisting us to
4 ensure that this happens.

5 MR. CAMPBELL: No. They have not committed to us
6 yet. We're working very hard with them. Again, we're
7 sending Marshall over there. There is a lot of unanswered
8 questions and a lot of loose ends we hope to tie up before
9 the shipping date. And I understand the concern out there.
10 But, you know, we're doing the best we can and we hope the
11 Chinese will work with us to tie up some of these loose
12 ends.

13 MR. CAVEY: We did have a meeting with a large
14 delegation from China in Washington, D.C. a number of weeks
15 ago and allowed this kind of exchange to occur where if they
16 had questions about what any of it meant, or how things can
17 be done, and I guess we talked for eight hours that day.
18 So -- and at each of the prior meetings that Mike identified
19 earlier, the public hearing in D.C. and the public hearing
20 in Seattle, the Chinese government sent a representative, at
21 least one representative there, and they asked questions and
22 so forth.

23 So there's been a lot of discussion on this end
24 and we hope there will be a lot, as Ron pointed out,
25 overseas.

26 MS. BAUM: Okay. My last question -- you know,
27 what do you recommend we advise our clients? We're asking
28 that question because there is a lot of confusion. You
29 know, we are always in touch with our Chinese and Hong Kong

1 offices and they're also working on their side trying to
2 figure out, you know, what -- how to best have a smooth
3 implementation of these new rules. So we're keeping in
4 touch with them, you know, as we find the news, you know,
5 attending this public hearing.

6 But we're getting from our shippers and
7 importers -- they're very concerned about this because there
8 doesn't seem to be -- you know, the USDA is very firm about
9 the implementation. And then when we go to our Chinese
10 offices and they're like, "Well, you know, they don't know
11 what they're going to do here." So, you know --

12 MR. CAMPBELL: Information will be forthcoming
13 from the embassy in China through Marshall Kirby and from
14 our office, our APHIS office in Beijing as well. Once
15 he -- when he receives any assurances from the Chinese for
16 any reason, he'll make that available to the industry in
17 China. He'll also make it available to us in Riverdale and
18 we will put that information on our website.

19 MS. BAUM: So do you anticipate that happening
20 before December 17?

21 MR. CAMPBELL: It has to.

22 MS. BAUM: Okay.

23 MR. REEVES: Yes. I mean, December 17th is a firm
24 date.

25 MS. BAUM: It's just so close that, you know, we
26 were even saying, "How do they have time, you know, when
27 there is only less than a month, or, you know, month and a
28 half to" --

29 MR. CAMPBELL: It's been 90 days.

1 MS. BAUM: Yeah. So, okay. Well, thank you for
2 your time.

3 MR. CAMPBELL: Thank you.

4 MR. REEVES: Thank you.

5 (Pause.)

6 MR. LIDSKY: Our last registered speaker is Mr.
7 Qin Hanchang from the Consulate General of the People's
8 Republic of China.

9 After Mr. Hanchang's presentation we will take a
10 short break and then hear unregistered persons who have
11 questions that they'd like to ask the panel. Go ahead,
12 please, sir.

13 MR. HANCHANG: I wish to make some comments on the
14 interim rule that we are talking about this morning.

15 My number one comment is that the longhorned
16 beetle occurs not only in China, but in some other Asian
17 countries, too, like Japan, Korea, and Malaysia. But this
18 interim rule is only intended to my country, China, and we
19 think that it's like a discrimination.

20 My number two comment is that longhorned beetle
21 only occurs on some tree species, not all -- occurs not all
22 trees in China. But the interim rule says that solid wood
23 packing material from China is all subjected to the required
24 treatment. I believe some of the trees carries no
25 longhorned beetle, but also has to be treated. That could
26 not be fair.

27 The treatment required is very expensive. Heat
28 treatment, fumigation treatment, and treatment with
29 preservatives -- I'm sorry -- these treatments are very

1 expensive and naturally it will bring the cost of those
2 exporters and importers go up. And their consumer also has
3 to pay more. And technically it's very difficult to operate
4 the treatment.

5 And my -- our ports in China are spread along the
6 coast from south to west, not like when it comes to Long
7 Beach half of the crews come here, but when it started in
8 China ports, it started everywhere along the coast.

9 So after September 17th, if the rule works, our
10 foresee that all over China the treatment will be all over
11 China -- heat treatment, fumigation. And this will produce
12 a lot of pollution and we believe that some of the pollution
13 will be detrimental even to our resale.

14 Five, China has suffered a loss because of the
15 Asian financial crisis, because we maintained that our
16 currency would not devalue the stability of Asian Pacific's
17 trade relations, and therefore we made a lot of sacrifice.
18 And this time this interim rule is again adding more burdens
19 on our exporters. And so this adds uncertainty of the trade
20 between our two countries.

21 Lastly, number six is that we know that longhorned
22 beetles are bad, it's dangerous to your forests, to your
23 vegetations. We believe that. And we also know that has to
24 be solved. Our approach is that the experts from two sides
25 should sit together and work out a practical, easier method
26 so the cost of required treatment would be reduced, would
27 not be so complicated.

28 We suggest that the two sides discuss it further
29 to find some mutually accepted solutions to the longhorned

1 beetle problem. I thank you very much.

2 MR. CAMPBELL: Thank you, sir.

3 MR. LIDSKY: Okay. It's now 10:30. We'll take a
4 break until approximately 10:40.

5 (Whereupon, the hearing was recessed from 10:30
6 a.m. to 10:45 a.m.)

7 MR. LIDSKY: We'd now like to give persons who
8 have not had an opportunity to speak, who are unregistered,
9 an opportunity to ask questions of the panel, as well as
10 people that have previously spoken who may have follow-up
11 questions.

12 So if you'd like to be recognized, please raise
13 your hand, come up to the panel, spell your -- come up to
14 the podium and please spell your last name for the record.
15 Any questions?

16 (Pause.)

17 MR. JACOBSON: My name is Tom Jacobson. I'm with
18 California Fumigating. It's J-A-C-O-B-S-O-N.

19 Is it my understanding that currently if customers
20 miss getting their product fumigated before it's brought to
21 the U.S., that it will have mandatory re-export, they won't
22 have the option of fumigation after December 17th?

23 MR. REEVES: That is correct.

24 MR. JACOBSON: So they don't have the option of
25 treatment on this side at all anymore?

26 MR. REEVES: That would be correct. As this
27 interim rule is written, that option would no longer exist.

28 MR. JACOBSON: Is there any chance -- I mean, not
29 only for the cost of the re-exportation, but obviously from

1 my end of it, the business end of it, losing that amount of
2 business -- there's no chance of having that amended so that
3 the customers still have the option of having it treated
4 here?

5 MR. CAMPBELL: Not at this time. The burden to
6 eliminate the pest risk has been put on the shoulders of the
7 Chinese government to make sure that they're sending pest-
8 free pallets. If we did not place this burden on China, we
9 would not be able to handle the amount of treatments here in
10 the port of Long Beach and other ports.

11 So -- and the amount of cargo that would be
12 stacked up and held awaiting treatment would be outrageous
13 for this port to handle. So we -- it would be -- we realize
14 that it's more efficient to have the treatment done in China
15 and have compliance checks here in the U.S.

16 MR. JACOBSON: But if a check is done here and the
17 pest is found, are they going to have mandatory re-export?
18 Or -- even if they have a certificate and they import
19 something and an inspection is done and they find something,
20 will it still be a mandatory export, or would they have the
21 option of fumigating it again here?

22 MR. CAMPBELL: No, at this time there'll be no
23 option for treatment in the U.S., outside of re-exportation
24 or destruction of the wood.

25 MR. CAVEY: I think we should say something.
26 First of all, we will certainly consider your comment. It
27 becomes part of the record. But I would say, too, that it
28 is a basic quarantine precept that you do whatever you can
29 to prevent the shipment of pests, rather than react to the

1 arrival of them.

2 MR. JACOBSON: Yeah.

3 MR. CAVEY: And that -- we've reacted to the
4 arrival of wood pests for many, many years because we
5 realize just how large an impact an action like this can
6 have on trade. And we've developed a philosophy over the
7 years that we will do our best to inspect these items and
8 take care of the problems as we find them.

9 But the problem has grown and grown. It's gone
10 from the point where we inspected only, to 1995 when we
11 developed a regulation that required that this solid wood
12 material and other materials be bark free. And we have
13 since done analysis to show that while the bark free
14 requirement has had an affect on bark beetles, which is one
15 of the problems that we deal with, one of the major
16 problems, a different family of beetles, it has not helped
17 us at all with these deeper wood borers, like longhorned
18 beetles.

19 And it's almost a progressive step of increasing
20 regulation over a long period of time, over 20 years, that
21 has finally led us to this point. And we must say that
22 Mexico and Canada are in full agreement with this kind of
23 approach, and are, in fact, developing a standard for all of
24 North American that would have the similar requirements,
25 almost the same requirements as this interim rule for solid
26 wood material from all over the world.

27 So from a quarantine standpoint it's -- we're
28 looking at two things: the better way of doing things,
29 number one, and the emergency situation that brought us to

1 the point where we actually said we have to do this.

2 MR. JACOBSON: Okay. You brought up the bark
3 beetle. I know currently if something has come in and it
4 has bark, it's allowed to be treated. There's no
5 provision -- or can there be a provision made for the
6 longhorned, that if something is found it can be treated
7 here?

8 MR. CAMPBELL: Well, again, we'll certainly
9 consider that comment. We may be in a situation where
10 safeguarding is a problem at certain times of the year
11 because beetles are emerging. And the means by which we
12 safeguard them may be limited at those times of year and we
13 may have to take certain emergency measures. But the way
14 the rule is written, that is not an option for importers.

15 MR. JACOBSON: Okay. Thank you.

16 MR. LIDSKY: Yes, sir?

17 (Pause.)

18 MR. SUNDFELT: Thank you. My name is John
19 Sundfelt, S-U-N-D-F-E-L-T. I'm with Hankyu, H-A-N-K-Y-U,
20 International Transport. We're freight forwarders and
21 Customs brokers.

22 I have one suggestion that you've probably thought
23 of, but I think it's absolutely imperative to try to do, and
24 that's to educate the importers and their agents, like us,
25 as to what we're looking for.

26 I have a shipment that left Japan today on 40
27 pallets that were made in China. And they weren't
28 fumigated, I'm sure, or treated. And the pallet now is a
29 piece of international traffic. They're used over and over

1 and over again, at least in our warehouse, until we have to
2 throw them out in the garbage.

3 And I would guess the average pallet has half a
4 dozen moves if it's anywhere near decent. And the Chinese
5 pallets will be all over the world. They are all over the
6 world and they're coming here from all over the world, not
7 just from China.

8 So I think if you have some kind of training or
9 information available to people here, I know I'd be
10 interested in having it in my shop. I could walk around the
11 warehouse and say, "That little sawdust on the floor might
12 be a beetle or something." And then tell us what to do when
13 we spot these clues.

14 And I think also, above everything else, you have
15 to educate the people that when it gets to them and they
16 find them, you're not going to penalize them. You want them
17 to tell you. And we want to know what to do. I just -- I
18 think it would help because they're coming from all over the
19 world, not just being shipped out of China. Thank you.

20 MR. LIDSKY: Yes. Again, we'd like to thank you
21 for your comments. That's a very good suggestion in terms
22 of notifying people and doing some kind of public education.
23 And there is a large effort being organized in that
24 direction.

25 It's going to be several phases. It's being
26 coordinated by people at the University of Vermont in direct
27 cooperation with USDA, APHIS, and the Forest Service. And
28 you're dead right. One of the first target groups is folks
29 that are importers and other people like the nursery

1 industry, lumber industry, and people like that that may run
2 into something like what you're talking about. So thank
3 you.

4 (Pause.)

5 MR. DELROSS: Hi. My name is Glen Delross.
6 That's D-E-L-R-O-S-S. I'm with J.F. Moran Company. We're
7 Customs brokers and freight forwarders. And I have a few
8 questions that came to me while I was listening to the panel
9 here.

10 The first one is: How do you propose to control
11 the containers? I don't quite understand that. I heard two
12 discussions; one about the manifest and one about informed
13 compliance and the Customs entry. So I'm not clear how you
14 intend on holding these containers. Which of those two
15 mechanisms are you going to use, or are you going to use
16 both?

17 MR. REEVES: Okay. And this will also vary some
18 from port to port. But in Long Beach -- in Long Beach at
19 this time what will happen is that PPQ will check each
20 manifest and from that document will determine which ones
21 will be monitored and which ones will be released and sent,
22 very similar to the way they do it right now.

23 MR. DELROSS: So the Customs entry would not be a
24 control.

25 MR. REEVES: Today that's exactly what we would
26 do, what I just said. We are pursuing several possibilities
27 with U.S. Customs. None of this has materialized at this
28 time. But we are certainly pursuing them -- actively
29 pursuing.

1 MR. DELROSS: The reason I ask that is that, you
2 know, in this port somewhere between 30 and 40 percent of
3 the containers that arrive are mini-landbridge containers
4 that are imported and move inland without any Customs entry.
5 There's an inbound movement, but it has nothing to do with a
6 formal Customs entry.

7 So then am I to assume that for that 30 or 40
8 percent of the containers that arrive, if the manifest
9 information is not sufficient, then you'll hold the
10 containers at the first port?

11 MR. REEVES: Correct. Well, let me just say this.
12 We'll do just what we're doing now. If -- our officers in
13 Long Beach work off the manifest and they will go down the
14 manifest and determine which shipments need to be inspected.

15 Initially, we will be monitoring portions of the
16 shipments from China probably every day and we'll work off
17 the manifests. And there's several -- one thing we're
18 trying to do here is to take the -- if we have to take
19 quarantine action, what we're trying to do is take the
20 quarantine action at the port of first arrival, because the
21 action is very drastic. It has to be re-exported.

22 So our attempt will be not to allow things to go
23 to Denver and to Cincinnati and to St. Louis. We will
24 attempt to make our decision on the shipments at the port of
25 arrival.

26 MR. DELROSS: Okay. My comment to that is that
27 the parties involved in that particular container may be in
28 St. Louis. They may be in Virginia. How is PPQ going to
29 contact those consignees which may have no agent in Los

1 Angeles to procure the information that you need to make
2 your determination as to the manifest compliance?

3 MR. REEVES: Okay. And that's one reason we've
4 agreed that we will not demand a signed original certificate
5 on a fumigation document, for example.

6 MR. DELROSS: So you're going to accept fax
7 certificates?

8 MR. REEVES: We would -- we anticipate accepting
9 fax and maybe other electronic means of notifying us that
10 they have said document.

11 MR. DELROSS: Do you get copies of the bills of
12 lading with the manifests, or not? My understanding is not.

13 MR. REEVES: I don't -- I would think that we do
14 not get copies of bill of lading on our initial inspection,
15 review of manifest.

16 MR. DELROSS: I didn't see anything in the interim
17 rule that related to having those statements on the
18 manifest. I read it that they had to be on the bill of
19 lading. So how do those two relate? If it's not required
20 to be on the manifest and you're going to use the manifest
21 as the tool, it seems to me that you don't have the
22 information you need.

23 MR. REEVES: Okay. As you heard earlier, we have
24 had several comments -- commenters recommend that we make
25 some provision to put it on the manifest and we're certainly
26 going to consider that comment.

27 MR. DELROSS: I'm sure you -- have you seen a
28 manifest on a vessel? You know how large it is, I'm sure?

29 MR. REEVES: I understand the ones here in Long

1 Beach are very, very large.

2 MR. DELROSS: Yes, they're very large.

3 MR. REEVES: And I have seen them.

4 MR. DELROSS: Do you have any estimates as to how
5 much larger they would be if it has the certificate you're
6 asking for?

7 MR. REEVES: Okay. What I would envision
8 now -- what I would envision would not necessarily -- I do
9 not anticipate ever having the treatment certificate on the
10 manifest. But I would possibly envision -- what I'd say
11 there's a real possibility of somehow developing a short
12 code that would allow that, "There's no solid wood packing
13 material associated with this." I do see that as something
14 that could be incorporated into a manifest -- with probably
15 not increasing the size of it a great amount.

16 MR. DELROSS: That may end up killing a lot of
17 trees. I don't know if that's your goal, but it sounds like
18 that's what you might end up doing if you double the size of
19 the manifest.

20 Second question -- informed compliance. Do you
21 mean by that the paperless entries the brokers get? Is that
22 what you're talking about when you talk about "informed
23 compliance" as a future for controlling these? Is
24 that -- because in Los Angeles 59 percent of the ocean
25 entries that come in here are paperless. Customs does not
26 see those documents.

27 MR. REEVES: Right.

28 MR. DELROSS: So are you proposing in your
29 suggestion -- am I understanding you right that you would

1 assume that Customs brokers would be certifying that the
2 certificate exists in their possession when they transmit
3 the entry? And, if so, they get a paperless. Is that what
4 you're proposing?

5 MR. REEVES: Yes. Yes. And this is a Customs
6 program and they actually tell me they're using it now in
7 some commodities. I think that they told me that there's a
8 requirement in the fishing industry, for example, of some
9 sort of control on the -- there's a document that's required
10 on incoming fish. And what they're doing -- they actually
11 have a program where people that are importing these kinds
12 of fish don't have to produce the document. They just do an
13 electronic entry, just like they would on any other item.
14 They do the electronic entry and Customs has the means of
15 monitoring a small percentage of them.

16 So you may make 50 entries and never hear from
17 Customs, and then on the 51st one they may say, "Sir, we
18 need the document." So it would bounce back to you.

19 MR. DELROSS: I would just suggest that you make
20 that clear, because it's certainly not in any document that
21 I read that the brokers were responsible for a 60-percent
22 compliance on gathering certificates. If informed
23 compliance is the method you use, I haven't seen that in any
24 published publication. So I would simply suggest that if
25 that's the method you use, that you make it clear.

26 MR. REEVES: Oh, certainly. Certainly. And,
27 quite frankly, it hasn't been worked out. So -- he was just
28 asking for possibilities and that's one of the things we're
29 exploring. And that's one of the issues that Customs has

1 already brought up, because just by the name it's "informed
2 compliance."

3 MR. DELROSS: My next question is in relation to
4 the certificate itself. I heard discussion about a
5 recertification. You certify -- in the case you heat treat
6 a large quantity of pallets, and then you're ready to ship
7 your shipment a month or two months or six months later,
8 then you have to recertify that same certificate that those
9 five pallets left. So there, in effect, is two documents
10 then. Did I understand that discussion correctly?

11 MR. REEVES: Well, there's no such thing as a
12 recertification. The way the interim rule is
13 written -- that each shipment -- if the solid wood packing
14 material has been treated, it's required that they have a
15 treatment certificate. It's not two different documents
16 there. It's just one.

17 MR. DELROSS: But in the discussion -- in the
18 questions and answers -- you know, if you have a room full
19 of pallets and you certify -- you may do ten. And you also
20 suggested there'd be no pallet count on that certificate. I
21 think that's what you said.

22 MR. REEVES: That's correct.

23 MR. DELROSS: That was your suggestion.

24 MR. REEVES: Well, I did say it, because -- it may
25 not only be pallets. There may be bracing.

26 MR. DELROSS: Sure.

27 MR. REEVES: There may be all sorts of things.

28 MR. DELROSS: Okay. But then when the shipment is
29 ready to go, you know, it may be a container, it may be 500

1 pounds, whatever it is, then you also want to see something
2 that matches the import documentation by bill of lading or
3 by container, whatever method we use --

4 MR. REEVES: That's correct.

5 MR. DELROSS: -- and they don't match. So the
6 only way that I can think of to do that would be a
7 recertification. Whether the documents require it or not,
8 that's what we discussed here today, it seemed to me.

9 And my comment is that by suggesting the
10 recertification issue, it appears to me that you're just
11 asking the Chinese government to mass produce these
12 documents of certification. And in doing that aren't you
13 encouraging non-compliance?

14 MR. REEVES: No.

15 MR. DELROSS: Do you understand what I'm saying?

16 MR. REEVES: Yes, I do.

17 MR. DELROSS: I'm saying they're going to crank
18 out these forms and they're going to put dates on them and
19 they're going to give them to you because you require them,
20 and they have nothing to do with when they were treated.

21 So my comment is that the interim rules lend
22 themselves to this non-compliance.

23 MR. CAMPBELL: No. If the Chinese government
24 were -- a pallet maker in China manufactures pallets and has
25 them all treated at once. The shipper in China has to
26 ensure that when his shipment leaves China, it leaves with a
27 treatment certificate. We're not recertifying. We're only
28 certifying one shipment.

29 As far as non-compliance, or as far as the

1 government of China initiating or writing fraudulent
2 certificates -- is what you're suggesting -- we will be
3 monitoring the shipments. If we find out that there are
4 fraudulent certificates out there, we may have to take more
5 drastic measures, even more restrictive measures, like
6 prohibition of wood packing material from China if that is,
7 in fact, the last resort.

8 MR. DELROSS: And my last question relates to the
9 CES scenario I think you suggested. You mentioned that you
10 were encouraging the ports, if I heard you correctly, to
11 establish a warehouse, what we call a CES, central exam
12 station, to act as a central clearing house for exams. Did
13 I misunderstand that? Is that what you said?

14 MR. REEVES: No. I didn't say that, no. I said
15 we're encouraging the ports to look at their local situation
16 to determine any method that they can work out that would
17 expedite the movement or the re-exportation of prohibited
18 packing material.

19 MR. DELROSS: Oh, the exportation. Not the
20 importation, the exportation.

21 MR. REEVES: Well, what we were looking at -- at
22 least I thought I was addressing at that time -- was when we
23 had containers that were in -- that were not in compliance.
24 So if you have a container that's not in compliance, you
25 need to get rid of that. Well, you either do one of two
26 things. You could re-export the entire shipment with the
27 solid wood packing material. Or you could break it down and
28 remove the solid wood packing material.

29 MR. DELROSS: I see.

1 MR. REEVES: So what I was asking -- what I was
2 saying is that the ports -- there's no way for us to do that
3 nationally because the opportunities at different ports may
4 be different. But if it's possible that you would have a
5 warehouse available, that the port authority may have vacant
6 warehouses. I mean, I don't know. It depends on the port.

7 MR. DELROSS: I just wanted to comment on that
8 though. The ports of Los Angeles and Long Beach are
9 landlord ports. They don't run or control any warehouses
10 here. And I just wanted to comment on that because that's
11 not ever been their role. There really is no single entity
12 that does that kind of thing in this port. So all your
13 exams then are going to be at the pier? Am I to understand
14 you correctly?

15 MR. REEVES: At the pier?

16 MR. DELROSS: At the pier. At the 14 facilities
17 that are in Los Angeles/Long Beach right now that handle
18 full containers. That's where you plan on holding the
19 cargo?

20 MR. REEVES: Let me ask you this. Let me ask you
21 a question. When you say that -- aren't there additionally
22 certain container facilities that are approved by Customs or
23 in bond?

24 MR. DELROSS: Yes.

25 MR. REEVES: I think we would certainly look at
26 those as possible expansions. But, again, that would be
27 done locally.

28 MR. DELROSS: The reason I ask that is because of
29 the consolidated import question. There are some shipments

1 that come in in consolidated containers that move from the
2 pier to an inland warehouse located relatively near the
3 pier.

4 MR. REEVES: Yes. Yes.

5 MR. DELROSS: So my question is: How would you
6 handle those? Are you going to hold them at the pier?

7 MR. REEVES: No.

8 MR. DELROSS: Or are you going to hold them at the
9 CFS station where the cargo is destined for?

10 MR. REEVES: Okay. What I would envision would be
11 a local solution. There should be nothing from what I said
12 that would prevent us from going to consolidation -- bonded
13 consolidation warehouses that are in the environs of the
14 port.

15 MR. DELROSS: So you would allow those to move
16 inland and then you would enforce it from the manifest in,
17 for example, St. George warehouse, or any of the other local
18 warehouses here in Los Angeles?

19 Because my concern is that there'll be ten
20 shippers in one container and one you don't have a document
21 on and that the other ten shippers would be held up pending
22 exam of that and that's my concern. So I would suggest that
23 those containers be allowed to move to those CFS stations
24 and then the examinations can take place at those
25 facilities, which are relatively close to the pier.

26 So I would think it would be a fairly minimal risk
27 to move those containers to prevent congestion. Because our
28 main problem in Los Angeles over the years has been
29 congestion. I think you know we move about 30 percent of

1 the whole -- the containers that arrive in the United States
2 through this port. And I think we're different probably
3 than any other port in the United States in that we're so
4 much larger than any other facility.

5 So if there's going to be one problem in this
6 country with this rule it will be here.

7 MR. REEVES: Right.

8 MR. DELROSS: And I think you need to work with
9 the trade to try to be flexible on some of these issues so
10 that we don't choke the piers more than they already are.

11 MR. REEVES: I would hope that we would be able to
12 work that out, those kind of things out, locally, not only
13 in Los Angeles, but in other places also. But that
14 would -- the intention would not to be -- the intention
15 would not be to prevent those sorts of movements.

16 MR. DELROSS: Thank you.

17 (Pause.)

18 MR. CHANG: My name is Michael Chang, C-H-A-N-G,
19 and I'm a lumber trader. I found out this news from the
20 Chinese newspaper about two weeks ago and I found this topic
21 very interesting. And I just want to say from
22 the -- strictly from the lumber point of view.

23 The way I read it is -- you know, there's a couple
24 of ways. You can do heat treatment. You can do
25 preservatives. You can do chemical treatment. And you can
26 do the kiln drieds; right -- for the -- for all the lumber
27 treated.

28 MR. CAMPBELL: Right.

29 MR. CHANG: And my question is, you know, I shop a

1 lot of North American wood from United States and Canada to
2 Taiwan. But at this point I didn't ship any to China yet.
3 But my question really is, you know, after lumber arrives in
4 China, Taiwan, or Hong Kong, they have -- most of the time
5 they have to resaw it. They resaw the hemlock, douglas fir,
6 or SPF into single boards and then they make the crates.
7 They make the pallets. So they lost the identities.

8 See, like, I ship the skinsas (phonetic), used to
9 be the repap (phonetic) lumbers. If they -- we ship the 47
10 millimeter into Taiwan, then they resaw it into 12
11 millimeter board. Then they lost the identity of the skina
12 wood or the repap wood. Then even though it's kiln dried,
13 but it, you know -- after they make the pallets or crates,
14 how can we prove it to the USDA, to APHIS, this wood is
15 originally from United States or from Canada?

16 MR. CAMPBELL: You just said you wouldn't be able
17 to because it lost its identity.

18 MR. CHANG: Right.

19 MR. CAMPBELL: That's the problem. So my
20 suggestion there would be to present certification of
21 treatment to the government of China and they can
22 make -- and they can certify that -- they can certify that
23 it's been treated based on the documentation you present to
24 them that this material has been treated, you know, in
25 accordance with the regulation. But it wouldn't
26 preclude -- you would -- the shipment arriving in the U.S.
27 would still require a treatment certificate from China if
28 there is solid wood packing material with the shipment.

29 MR. CHANG: Yeah. Well, we ship the woods from

1 North America or from Canada, as you know, they always come
2 with a certificate and it says country of origin is either
3 Canada or is United States of America.

4 MR. CAMPBELL: Is that material kiln dried?

5 MR. CHANG: Yeah, I mean, you know, like hemlock,
6 right?

7 MR. CAMPBELL: Yeah.

8 MR. CHANG: Or douglas fir is shipped from Oregon
9 or Washington or from British Columbia.

10 MR. CAMPBELL: Right.

11 MR. CHANG: I mean, after it arrived in China, you
12 know, they resaw it. They lost identity of the wood, right?

13 MR. CAMPBELL: It's not the identity. It's the
14 treatment. Has the wood been treated?

15 MR. CHANG: Yeah.

16 MR. CAMPBELL: The wood has been treated?

17 MR. CHANG: Yeah, most of the wood here -- for
18 instance, like kiln dried.

19 MR. CAMPBELL: It's been kiln dried?

20 MR. CHANG: Kiln dried. You know, that means it's
21 been treated, right?

22 MR. CAMPBELL: Is there documentation stating that
23 the material has been kiln dried?

24 MR. CHANG: Usually we have a certificate from the
25 mills.

26 MR. CAMPBELL: Okay. So use that certificate to
27 work with the government of China so they can certify the
28 shipment -- certify that the material has been treated.

29 MR. CHANG: Yeah, but I mean -- that's not my

1 point. My point is after they resaw the wood, okay, and
2 making the single board, and making the pallets, right -- in
3 the warehouse they might have some -- you know, the long
4 beetle bugs that will be attached to the wood. But that
5 wood was from North America.

6 If we don't fumigate the wood, you know -- if it's
7 carried on the pallets and they ship it to Long Beach, it
8 will be still the problem.

9 MR. CAMPBELL: You're saying, however, that the
10 wood was heat treated here?

11 MR. CHANG: Right. Heat treated here or Canada,
12 shipped back there. And they're making the pallets. You
13 know, the long beetles can stick on the pallets and
14 eventually come back to the United States, causing a
15 problem.

16 MR. CAVEY: Okay. I don't think we're going to
17 have much of a problem along those lines. One of the things
18 we know is that these beetles -- I mean, you can always have
19 what we call a hitchhiking beetle. They can get on -- if
20 they're attracted to a light in a packing area, or in a
21 warehouse, and then they're thrown in and they land on the
22 cargo and they're thrown in a container and sent over here,
23 that can always happen with almost any kind of insect that's
24 mobile from anywhere in the world.

25 And when things like that happen we'll have to
26 react to them accordingly. But the longhorned beetles that
27 we're talking about are not going to attack wood that is
28 processed, and especially wood that's been dried out. So
29 anything that you send to China is not at risk from our

1 standpoint.

2 There's a few things that will, like termites.
3 We've found so few of those over the years that that isn't a
4 concern of ours. Our concern is that fresh-cut wood is
5 being used from sources that have exotic pests that might
6 harm our environment.

7 So I don't think from a practical standpoint and
8 certainly not from a risk standpoint that the scenario
9 you're describing will be a problem for either of us.

10 MR. CHANG: Okay. So the way I understand
11 it -- if I ship the kiln-dried lumbers back to China and we
12 have the certificate with it, and they resaw those lumbers
13 and get a certificate from the Chinese government, then we
14 can prove it to USDA that this wood has been treated, even
15 though there is some hitchhiking bugs on it, it's still
16 okay, right?

17 MR. CAMPBELL: If China will accept that
18 certification that the material has been treated, then they
19 can certify based on that document you give them.

20 MR. CHANG: Okay.

21 MR. CAMPBELL: As far as hitchhiking pests, if we
22 find hitchhikers, we'll have to take quarantine action, but
23 depending on whether or not they are quarantine significant.
24 Our guess is that you're not going to find hitchhiking Asian
25 longhorned beetles or hitchhiking wood pests, period.

26 MR. CHANG: Okay. Thank you very much.

27 (Pause.)

28 MR. CLARKE: I have two questions. My name is
29 Roger Clarke, C-L-A-R-K-E.

1 The first question is probably an operational
2 question. Quite a bit of our products coming into this port
3 are seafood products coming out of China, with prolonged
4 cold. Would that, the fact that it's under extended cold
5 periods, destroy this type of a pest?

6 MR. REEVES: At this time, all of the treatments
7 that are approved are listed in the question and answer.
8 Extended cold treatment has not been an approved treatment
9 at this time.

10 MR. CLARKE: Is it a possibility that could be
11 looked at as an alternative?

12 MR. REEVES: Extended cold treatment is always a
13 possibility.

14 MR. CLARKE: Again, I'd like to make that as a
15 suggestion then, that possibly some other alternatives for
16 treatment be addressed.

17 The second question is in regards to any type of
18 sanctions in the interim regulations. Again, a repeated
19 infraction of the interim regulations by a shipper, a
20 particular individual shipper -- will there be any sanctions
21 put on that shipper for importations into the United States?
22 Or is each one going to be strictly on a shipment-by-
23 shipment basis, irregardless of whether we're living in an
24 imperfect world or not? And, again, are you going to
25 penalize the whole country for the infraction of a small
26 portion of shippers?

27 MR. REEVES: As a matter of operational procedure,
28 what we will do, and what we always do, is we do our best to
29 look at cargoes and, in this case, solid wood packing

1 materials where we think we're more likely to find pests.

2 And if -- and one way that we do that is we try to
3 keep track of kinds of commodities that are causing us
4 problems, certain shippers who may be causing us problems,
5 and several other ways of trying to evaluate a shipment.
6 And that is certainly one that we use.

7 MR. CLARKE: Is there any possibility of cross
8 contamination of this pest to other products within a
9 container, such as other pallets that have been treated or
10 not treated?

11 MR. CAVEY: At the wrong time of year when adults
12 are emerging -- remember, this beetle spends its time in the
13 wood mostly as an immature for ten out of 12 months in a
14 year, and up to 22 out of 24 months in a two-year period.

15 So it's usually in the wood and that problem we're
16 talking about is not going to occur. But if you're in the
17 wrong month of the year, and that's going to be July through
18 almost November, in those months, depending on the beetles
19 that are in there, the Asian longhorned beetle will be
20 emerging during those times, at least a proportion of those
21 in the wood.

22 And then, of course, you've got -- they're mobile
23 and they're going to be moving all around in the container.
24 So, yes, there is some risk then. Now, they're not going to
25 move into wood in those containers because they will not lay
26 their eggs on this older wood. But they will be looking
27 around to get out of the container. They may get into cargo
28 and something would have to be done to control them in that
29 situation.

1 MR. CLARKE: And I presume that you'd have to meet
2 all the requirements of EPA for destruction. And, again,
3 what options would there be if the importer cannot find a
4 facility in this, let's say, Los Angeles area that will not
5 accept it for destruction? I guess the only alternative is
6 to re-export it.

7 MR. REEVES: At this time the only option is to
8 re-export.

9 MR. CLARKE: Okay. Thank you.

10 MR. CAVEY: While the gentleman is approaching we
11 do want to make one comment about the cold treatment
12 possibilities on this pest and others.

13 Most of the pests that we're concerned with and
14 have been finding, including the Asian longhorned beetle,
15 are temperate pests in China. The Asian longhorned beetle
16 itself can survive, we believe, in this country from the
17 Great Lakes down south to almost the latitude of Cancun,
18 Mexico. It's very winter hardy and it, in fact, is
19 found -- in China it's mostly in the northern section of the
20 country.

21 So it's not likely that we're going to get the
22 kind of chill that we'd require for quarantine treatment
23 simply by using cold in this particular case, and in many of
24 the others.

25 MR. CLARKE: What I was referring to was like 18
26 degrees centigrade -- below zero. That's extremely cold.

27 MR. CAVEY: That's a possibility then.

28 (Pause.)

29 MR. ROTH: My name is John Morgan Roth and I'm the

1 owner of Harbor Pest Control and we're located in San Diego.
2 We operate also in the Long Beach area. We're fumigators.

3 I don't want to belabor the physiology of this
4 insect, but it does come out and it just recently -- I want
5 to be kind of clear, if we can be, on this.

6 If I use the word saphrofidic (phonetic) -- maybe
7 that's improper. But I've been getting from your
8 conversation here that this -- the adults are not
9 ovapositing (phonetic) normally on dead or cut -- that
10 they're after a parasitic -- putting the eggs into a
11 parasitic or on a tree -- on the growing portions of the
12 tree. Is that applicable? It probably is in here. But is
13 it -- in reference to these other species, or what other
14 beetles -- the longhorned beetles -- we call them usually
15 single emergence types.

16 Now, are they going to get back and get any
17 other -- we have them, you know, in our houses in some of
18 the pine and some of the upper forests. They have emerged
19 but they're not going to -- they're not a problem, other
20 than they're piggy-backing maybe. Is that --

21 MR. CAVEY: Well, as far as -- as far as these
22 beetles re-entering structures and causing problems with
23 processed wood, you're right. They will not. But the
24 beetles that we're concerned about -- APHIS does not
25 consider as quarantine pests beetles that get only in
26 processed, dried, dead wood. We're concerned with those
27 primarily that attack live trees, healthy, stressed, or
28 weakened even.

29 MR. ROTH: Thank you very much.

1 MR. LIDSKY: Yes, sir?

2 MR. MALDONADO: Carlos Maldonado,
3 M-A-L-D-O-N-A-D-O, with Barnhart & Associates, Customs
4 broker.

5 A question to ask you regarding processed wood
6 products. Would pressure-treated wood be considered
7 processed?

8 MR. CAMPBELL: It wouldn't be considered
9 processed. It would be considered treated.

10 MR. MALDONADO: Okay. And another question. You
11 mentioned something about Hong Kong being treated a little
12 bit differently. Are they going to be requiring the 10P
13 form as well, or are there designated fumigation facilities
14 there?

15 MR. CAMPBELL: As far as the form, we don't know
16 exactly what form Hong Kong will be providing.

17 MR. MALDONADO: Because they --

18 MR. CAMPBELL: We expect that they will be letting
19 us know. And as soon as we know, we'll be letting you know
20 through our website.

21 As far as them being treated differently, what we
22 stated in our interim rule is that their -- that the Hong
23 Kong special administrative region has a different
24 inspection regime and a different Customs and agriculture
25 regime.

26 They also -- the wood originating from
27 China -- and Joe will elaborate on this, I'm sure. The wood
28 originating from Hong Kong is not as high a risk for these
29 pests as the wood from mainland China. But 50 percent of

1 mainland China's exports to the U.S. come through Hong Kong.

2 In order to close up that hole, we included Hong
3 Kong in this rule making. When I said we are treating them
4 differently, that's actually incorrect. We are considering
5 changes.

6 If Hong Kong is able to provide a way of fixing
7 this problem of transit, we may be able to reevaluate the
8 need to regulate wood packing material from Hong Kong. The
9 wood packing material from China through Hong Kong is
10 another story.

11 MR. MALDONADO: Right. Because it would still be
12 considered China. So you have no -- because there's a few
13 fumigation facilities in Hong Kong that are being used that
14 are part of -- it's called the National Pest Control
15 Association. Would those be considered okay after the 17th,
16 until you figure out what you're doing with them?

17 MR. CAMPBELL: Yeah. Are they -- is it a
18 government entity? When you say the National --

19 MR. MALDONADO: It says they're members of the
20 National Pest Control Association.

21 MR. CAMPBELL: If it is sanctioned by the Hong
22 Kong government in some fashion and they present that to us,
23 we can look at that and maybe, you know, allow for that.

24 MR. MALDONADO: Okay. Thank you.

25 MR. CAMPBELL: Thank you.

26 (Pause.)

27 MS. RADCLIFFE: Yes. My name is Marina Radcliffe
28 with Merskline (phonetic) -- R-A-D-C-L-I-F-F-E. And I just
29 wanted to voice a carrier concern.

1 I understand that in Seattle there was discussions
2 of clausung the bills of lading with the clause of some
3 certification, and we just wanted to voice our concern that
4 we didn't want to have to be responsible or liable for the
5 clausung of these certifications.

6 I know there's talk also of the manifest being
7 utilized.

8 MR. CAMPBELL: Can you say that again? What did
9 you hear in Seattle?

10 MS. RADCLIFFE: That in the meeting in Seattle it
11 was discussed that perhaps clausung the bills of lading
12 would be utilized. I'm assuming that's because it will be
13 transferred onto the manifest, which then you'll be able to
14 view.

15 MR. CAMPBELL: When you say "clausung the bill of
16 lading" --

17 MS. RADCLIFFE: Yes, this is what we understand,
18 that this issue came up in Seattle.

19 MR. CAMPBELL: You mean as far as the statement or
20 the certificate?

21 MS. RADCLIFFE: Right.

22 MR. CAMPBELL: Either one. No, I don't remember
23 that happening in Seattle or talking about clausung the bill
24 of lading. We discussed the possibilities of attaching the
25 certificate to the bill of lading to ensure that it goes
26 with the shipment, but that's not mandatory.

27 MS. RADCLIFFE: Okay.

28 MR. CAMPBELL: All right. Hopefully, that answers
29 your question.

1 MR. CAVEY: Again, we'd suggest that locally
2 they'd work out the best way to present this.

3 MR. CAMPBELL: Right. Yeah, locally -- working
4 with -- the broker or the shipping line working locally with
5 the PPQ office to find out the best way to present the
6 certificates for each shipment.

7 But the importer is responsible for supplying the
8 certificate.

9 MS. RADCLIFFE: Right.

10 MR. CAMPBELL: That would be done through a
11 broker, probably a Customs broker. The shipping line may be
12 requested to hold cargo if that is the way that cargo is
13 held in a certain port. That would be the extent of the
14 shipping line's responsibility.

15 MS. RADCLIFFE: Okay.

16 MR. CAMPBELL: What we would hope that a shipping
17 line would do to expedite the process is find out a way to
18 make notations on the ship's manifest as far as
19 saying -- what Dave was talking about as far as putting that
20 statement on -- "There is no solid wood packing material
21 with this shipment" -- on the manifest, next to that bill of
22 lading number, so the inspectors know that this shipment is
23 in compliance, or at least trying to be in compliance.

24 MS. RADCLIFFE: Well, as a carrier we're certainly
25 welcoming any suggestions that we can help expedite the
26 movement of the cargo, but that being said is there going to
27 be more direct dialogue with the carriers in the event that
28 that is the form that's utilized, so that we make sure that
29 we are in full compliance, and one that we can actually work

1 with that.

2 MR. CAMPBELL: Some ports rely wholly on the
3 carriers to hold cargo. Some ports don't review manifests,
4 but review only Customs entries. So it has to be done
5 locally.

6 MS. RADCLIFFE: Okay. Thank you.

7 MR. LIDSKY: Thank you.

8 (Pause.)

9 MS. BAUM: I'm back. My name is Estella Lopez-
10 Baum. But just to kind of follow up her question -- we were
11 talking about manifests and, you know, attaching
12 certificates to the manifest. You know, if the carriers are
13 not going to be willing to do that, then, you know, the
14 advanced notice or advanced presentation of the documents is
15 not going to happen, because if we're just asking the
16 carriers -- or there's no, you know -- there's no
17 responsibility or accountability on their part, then it kind
18 of rests on the broker to push this, because it's the
19 importers' responsibility, but, you know, importers use
20 Customs brokers.

21 And so then, you know, if we're -- you know, so
22 how is that going to work out? You know, if you're going to
23 be accepting advanced information, where are we going to
24 channel those? You know, and I'm speaking as, you know, for
25 everybody here who's a broker.

26 MR. CAMPBELL: If you're in a port where the PPQ
27 officer holds the cargo through the ship's manifest, or off
28 the ship's manifest, directly with the line, then the line
29 will hold the cargo. When a broker tries to pick the cargo

1 up, the line will notify the broker that there's a hold on
2 the cargo and a certificate needs to be presented to PPQ for
3 that shipment.

4 Therefore, it would be up to the broker to work
5 with the importer to get that certificate to PPQ to get the
6 cargo released.

7 MS. BAUM: So therefore that scenario is
8 already -- the cargo is here. It's been selected for
9 examination and you're presenting, you know, the paper
10 documents. So, you know, originally we were talking about
11 advancing the documents because we would like to facilitate
12 the movement of the cargo.

13 But what you're saying now is, "The cargo is here.
14 You've been randomly selected for an examination and, you
15 know" --

16 MR. REEVES: Let's go back to the manifest for a
17 moment. I do not envision the U.S. Department of
18 Agriculture requiring the statement attached to the
19 manifest. What I do envision is that if the industry,
20 brokers working with carriers, determine that they are
21 capable of doing that -- I envision us accepting it as a
22 means of conveying that information to us.

23 If you're asking us, "Are we going to mandate that
24 the carriers include this on their manifest," I think we
25 will not.

26 MR. CAMPBELL: And I wasn't -- my -- what I was
27 talking about was not holding the cargo for examination,
28 rather, holding the cargo to see if there is a fumigation
29 certificate. I mean, that -- that could coincide where they

1 want the certificate and an exam at the same time, but if
2 the cargo is on hold with the shipping line and the
3 inspector requests that a certificate be presented, and if
4 that certificate is presented and that is all that's
5 required by PPQ, then the shipment can be released.

6 MS. BAUM: Now --

7 MR. CAMPBELL: I mean, that's -- if you're holding
8 cargo prior to it being in the port -- right? And if we're
9 reviewing manifests to see if certificates are present, and
10 that certificate is made available to PPQ, that doesn't
11 necessarily mean that that shipment will be selected for --

12 MS. BAUM: Being examined.

13 MR. CAMPBELL: -- an exam.

14 MS. BAUM: It's just being held.

15 MR. CAMPBELL: Not to say it won't be either.

16 MS. BAUM: It's just being held for, you know, the
17 certificate.

18 MR. CAMPBELL: Initially, we're going to
19 be -- and, Dave, correct me if I'm wrong here. But
20 initially we're going to be making sure that all -- well,
21 that the main focus of a lot of our manifest reviews will be
22 to find out if there are certificates present.

23 MS. BAUM: So, you know, also as a follow up to
24 another gentleman who spoke about, you know, the inbound,
25 you know, where you don't have a Customs entry and the PPQ
26 is reviewing the manifest and, you know, some of the
27 carriers -- you know, they transmit their inbound
28 information electronically so, you know, where there's no
29 hard copy documents that, you know, are -- so then that

1 container that is supposed to travel, let's say, to Denver
2 or Cleveland, is going to be held. It's not going to go on
3 the rail.

4 MR. CAMPBELL: That's correct.

5 MS. BAUM: Until the hard copy certificate is
6 presented to PPQ in this port.

7 MR. CAMPBELL: Yeah. If cargo is held, it's held
8 at the first port of entry until we're sure that it's in
9 compliance. So, yeah, it would be held. It would probably
10 be held at the line. Before allowing it to go the line
11 would have to communicate with the broker in some fashion to
12 get the proper documentation before it can be released.

13 MS. BAUM: Well, how is that going to work for
14 some importers who do not have local brokers in the very
15 first port of entry?

16 MR. CAMPBELL: We would accept the facts.

17 MR. REEVES: Well, let me just go a little further
18 on that. You mean today, for various commodities, we put
19 holds on IT shipments, for whatever reason. And some of
20 those probably don't have local brokers. But once the
21 shipment is held, and it probably varies from port to port,
22 but there is a mechanism so that the person who is the owner
23 in Philadelphia or St. Louis --

24 MS. BAUM: Is notified.

25 MR. REEVES: -- realizes it's being held and take
26 whatever action is necessary.

27 MR. CAMPBELL: Yeah. I'm two years removed from
28 the field. I used to work in the port of Baltimore. And
29 when we held IT shipments we worked directly with the line

1 and the line would work with the broker and wherever the
2 destination is to secure the paperwork that we needed to
3 release the shipment. That happens quite often. That's
4 actually -- there's really no change in the way we do
5 business. We hold cargo at the first port of entry in every
6 port.

7 MS. BAUM: Okay. Thank you.

8 MR. LIDSKY: Are there any other persons that
9 would like to come forward and make any addition remarks or
10 pose any questions to the panel?

11 (Pause.)

12 MR. DELROSS: My name is Glen Delross, again. In
13 relation to the carriers -- are there any other carriers
14 here besides Mersk? Okay.

15 It's disconcerting to me to hear Merskline say
16 they don't want to be responsible for the manifest, because
17 they're going to end up with a problem. I mean, the
18 containers are going to sit at your facility and congest
19 your terminals.

20 UNIDENTIFIED SPEAKER: (Indiscernible.)

21 MR. REEVES: Okay. We're not getting this on the
22 record. So you have to come to --

23 MR. LIDSKY: You have to speak through a mike to
24 get anything on the record.

25 MR. DELROSS: So from a broker's standpoint I
26 would -- I would encourage -- I would suggest that it be on
27 the carrier. As a matter of fact, I think that's the only
28 way to keep cargo moving.

29 Putting it on the broker that may not be located

1 in that city, as was pointed out on multiple occasions, is
2 not going to work in the volumes that you're talking about.
3 Yes, it's not a change in procedure, but it's a big change
4 in the volume of containers you're going to hold. And I
5 think you're going to have a problem. You better have ten
6 fax machines here in Long Beach and the fax machine numbers
7 had better be published and you had better staff up for it
8 because I don't think you're going to be able to handle the
9 volume of non-compliant, or theoretically non-compliant,
10 because the manifest is not complete.

11 You've already said you have no requirement in the
12 interim rules that the manifests have -- be coded. And now
13 at the same time the carrier is saying they don't want to be
14 responsible for it. It's just going to hold the cargo up.
15 So, yes, the carrier, I feel, has to be responsible.
16 Otherwise, that cargo is going to sit when it gets here.

17 The other problem is: How do we know if something
18 is an exam, or if something is a hold for document purposes?
19 I think there's -- that's two separate issues; right?

20 MR. REEVES: Again, I'm not positive of this but I
21 suspect at most of our ports the result will be the same.
22 It will be -- a hold will be placed on the manifest. It
23 won't say -- it won't say whether it's for exam. Or it
24 won't say whether it's for document.

25 MR. DELROSS: Which is, I think, the current
26 practice and then the local broker calls and finds out what
27 the problem is.

28 MR. REEVES: Right.

29 MR. DELROSS: But, again, when you're dealing with

1 40 percent of the containers with no broker, you know, the
2 freight sits for a week or something and -- again, the
3 carriers cooperate, you know, as you suggested that you've
4 seen in the past, but not in the volume you're suggesting
5 now. You know, you're putting a lot of burden on the
6 carriers locally.

7 And my suggestion is that that burden also be
8 placed overseas by requiring it to be on the manifest,
9 because -- you know, carriers have problems with getting
10 their foreign offices to do things, just like everybody has.
11 So my suggestion is that the control be through the
12 manifest, and not through the Customs broker. That's my
13 suggestion, because that's where it has to start. It has to
14 start overseas to prevent the congestion.

15 If you're going to wait for the broker to give you
16 the document when it gets into the country, you've already
17 got a congestion problem. Containers move -- on the mini-
18 landbridge scenario, the 40 percent that does come
19 here -- they move overnight. Lots of times they move on a
20 weekend. A lot of vessels in this port call on Friday,
21 Saturday, Sunday, and by Monday morning, before the brokers
22 are even in, that cargo is already on the rail and moved.

23 So what you're proposing is to hold all the
24 weekend containers that are non-compliant. That would
25 create an incredible amount of congestion here in Los
26 Angeles. It's non-workable because of the weekend
27 scheduling for most of the cargo from China to the United
28 States.

29 So, again, the only control that's going to work

1 is the manifest. The brokers' control is not going to work
2 if you wait till Monday morning. It's going -- by that time
3 the port is going to be so congested that it's going to be
4 absolutely unbearable to move cargo and it's just going to
5 choke the whole port.

6 So I think the Steamship Association and the local
7 brokers association needs to work together to address this
8 issue, because otherwise we're just going to be incredibly
9 congested here. And I think the answer is in the manifest.
10 I think you're right. The coding issue is probably the way
11 to go.

12 But have you asked the carriers about the coding
13 issue? Have you had discussions with them about agreements
14 on that issue? It didn't sound that way in the comments.

15 MR. REEVES: Have we had discussions --

16 MR. DELROSS: Discussions with the carriers.

17 MR. REEVES: We've talked to the carriers, yes.

18 As specifics as to -- I'm sorry. You say "coding"?

19 MR. DELROSS: Coding. You were suggesting coding
20 as to the certifications. That was your suggestion.

21 Instead of the -- in lieu of the physical certification
22 being attached to the manifest, which you said you weren't
23 suggesting, you were suggesting coding. So if -- have you
24 suggested that to the carriers and what was their response?

25 MR. REEVES: Well, it really wasn't my suggestion.
26 It came up as a comment and it is -- in fact, it's come up
27 in probably all of our meetings as a comment. And, as I
28 said, it's -- I do not envision us mandating a
29 carrier -- well, let me back up on that.

1 You have just made -- you've also made a comment
2 which will be considered -- as to -- that it should be on
3 the carriers rather than the brokers. And, if I understand
4 the comment, and it's on the record, it's a comment that we
5 will consider.

6 MR. DELROSS: I was just asking for what their
7 response might have been in the other meetings in other
8 cities. Was there any feedback you'd like to share with us
9 on other cities -- the carriers -- it didn't sound as if
10 they were aware of this issue.

11 MR. REEVES: I would -- if I were going to
12 characterize their responses, many times they didn't
13 respond. I mean, it would be -- someone would make a
14 suggestion, such as you just did, and --

15 MR. DELROSS: So there was no response?

16 MR. REEVES: Yeah.

17 MR. DELROSS: Okay. All right. Thank you.

18 MR. CAMPBELL: Any changes, obviously, will
19 be -- any changes such as what you're suggesting would be
20 published in the Federal Register prior to -- prior to the
21 effective date.

22 We're here to receive comments such as that and
23 evaluate them and see if they -- it's something that we
24 should be making changes -- or make changes to the rule
25 based on your comments. So your comment is accepted and we
26 will evaluate it.

27 (Pause.)

28 MS. MORAVEC: Good morning, gentlemen. My name is
29 Sue Moravec, M-O-R-A-V-E-C. I'm with Titron Media U.S.

1 (phonetic). We're an importer.

2 I have a few questions. Mr. Campbell, you
3 suggested earlier that you're having some difficulties with
4 the Chinese government as far as compliance. I'm wondering
5 why, if that's the case, that you're insistent that all of
6 the certificates come only from the Chinese government and
7 you're not looking at other commercial fumigation companies
8 to supply the certificates, or why we can't use them for the
9 certificates.

10 MR. CAMPBELL: I didn't say I was having
11 difficulty with China gaining compliance. I said we have
12 not received any commitments from China --

13 MS. MORAVEC: Okay.

14 MR. CAMPBELL: -- as yet. We anticipate that
15 China will provide us more information. And when that
16 information is made available to us, we'll make it available
17 to you.

18 Your second suggestion is not out of the question.
19 China needs to work that out with their industry. And what
20 you're suggesting is accepting certificates from other
21 entities besides the Ministry of Agriculture?

22 MS. MORAVEC: Yes.

23 MR. CAMPBELL: That's not out of the question.
24 They need to tell us what those entities are.

25 MS. MORAVEC: Okay. In my conversations with
26 APHIS personnel they've indicated that after December 17th
27 they will absolutely refuse certificates, even if they come
28 from commercial fumigators -- that it will only be from the
29 Ministry of Agriculture. And I'm -- that's very restrictive

1 for the Chinese exporters.

2 MR. CAMPBELL: The way the rule reads now is from
3 the government of China, not Ministry of Agriculture of
4 China, but from the government of China. If the government
5 of China designates certain commercial fumigators that they
6 say may have their version of a compliance agreement with,
7 then we will -- we will definitely honor that.

8 MS. MORAVEC: Do you have any idea when we'll have
9 any information as to what other options there are besides
10 the Chinese government?

11 MR. CAMPBELL: We hope now that our plant
12 quarantine specialist is in Beijing, he will be able to get
13 us more information more freely and we'll definitely get
14 that out as quickly as possible. When? We hope soon.

15 MS. MORAVEC: Okay. My other question is: When
16 the rule goes into effect there will be a lot of inspections
17 and that's going to cause a backlog and serious delays. Do
18 you have any idea how long shippers can expect their
19 containers to be held up if they're waiting for inspections?
20 That's a big concern for a lot of my customers, is that
21 products are going to be held for a long time.

22 MR. REEVES: We are certainly hoping to minimize
23 the delays. And there are various ways to do this. We
24 could possibly do a percentage of inspections that change
25 every day. You know, it's possible that if you wanted to
26 run through -- it may not be necessarily that we will hold a
27 hundred percent of the cargo on the first day. We might
28 just hold a percentage of it -- monitoring in that manner.

29 MR. CAVEY: I would add to that. Sometimes I

1 think all of us get to the point where we start to forget
2 that this is all about risk and it's not about paper. And,
3 really, a monitoring program is the same way.

4 And I think what we're going to need to do is
5 we're going to need to see if the risk has dropped the way
6 we hope this rule will drop it.

7 And I would amend the very things that Dave said
8 by saying that if we find that that risk is low, we're
9 probably going to cause minimal delay after that point in
10 time.

11 But if we find that we're having problems, we
12 can't say what we're going to need to do. We're just going
13 to have to see what kind of problems they are, whether
14 they're coming from just a few sources, rather than from all
15 over, whether it's non-compliance with certain shippers not
16 getting what they need from the government versus getting
17 something from the government that is a problem, meaning
18 that the pests survived the treatment.

19 So there's a whole lot of things that we can't
20 predict, but that's what we're all about. That's what we
21 need to look at.

22 MS. MORAVEC: Okay. Thank you.

23 (Pause.)

24 MR. LIDSKY: I believe Mr. Bogan was first.

25 MR. BOGAN: My name is Tom Bogan, again, with
26 Stone Container.

27 I wanted to make a couple of follow-up comments
28 real quickly. It seems that much of our discussion today
29 has been assuming current methods of handling, current

1 methods of doing business, and the burdens associated with
2 that. A large portion of that burden seems to be associated
3 with wood pallets. That seems to be the biggest issue.

4 We have a paradigm that -- where we transport
5 things in cargo ships on wooden pallets. It goes onto
6 railroads or onto trucks and moves about the country.

7 I think the costs associated with the interim rule
8 are certainly -- it's reasonable to assume that people are
9 worried about that and the amount of time and delays, things
10 like that.

11 My suggestion is that there are other ways to look
12 at this and there are in place alternative methods to the
13 wood pallet, being the biggest issue it seems to this whole
14 process. And I would urge that we educate, first,
15 ourselves, and then educate our customers maybe across the
16 ocean that there are basically some no-cost alternatives to
17 what we're doing now that would not be encumbered under the
18 new interim rules. They should find out about them, see if
19 they work for them. Then you're going to have a whole lot
20 less problems on this side of the ocean when things are
21 coming in.

22 There are -- available alternatives are in place
23 now and the capacity is easily expanded depending upon,
24 obviously, demand. There's lots of ways to handle this.
25 Thank you.

26 MR. LIDSKY: Thank you.

27 (Pause.)

28 MR. O'NEILL: Terry O'Neill, again. I think, just
29 to clarify one item, and I think maybe some of us might have

1 misunderstood. The way I read it now is that if a pest is
2 discovered, the entire shipment is refused, product
3 included. Is that correct? And, if it is, essentially what
4 I think -- a comment would be that possibly the product that
5 is not infested could be removed and the rest could be
6 shipped out. But the wording is a little confusing.

7 MR. CAMPBELL: No, the solid wood packing material
8 would be refused entry, not the product itself. We will
9 allow devaning (phonetic), stripping of the wood, and re-
10 exportation of the wood.

11 MR. O'NEILL: Okay. Good. It was a little
12 confusing in one of these -- in one of the sections of
13 the -- that I was reviewing -- "cargo and SWPM" on page two
14 of the facts sheet.

15 MR. CAMPBELL: It says cargo and SWPM?

16 MR. O'NEILL: Cargo and solid wood packing
17 material -- deny entry of the entire lot or shipment, cargo
18 and SWPM.

19 MR. CAVEY: Which paragraph?

20 MR. O'NEILL: It's on the second page of the facts
21 sheet, column two, second paragraph. It's a little
22 confusing and I think that one of the comments that ought to
23 be taken into consideration is the removal of the good cargo
24 and export of the packing material.

25 MR. CAMPBELL: Well, that is, in fact, in the
26 Federal Register itself.

27 MR. O'NEILL: Okay.

28 MR. CAMPBELL: This may be an oversight.

29 MR. REEVES: It says, "Alternately, the inspector

1 may allow the importer to separate the cargo from the solid
2 wood packing material."

3 MR. O'NEILL: Okay. Good. All right. My
4 confusion then.

5 MR. CAVEY: What that means is that there may be
6 shipments that present such a high risk, such as -- we were
7 mentioning earlier -- emerging beetles are going on, that
8 there may not be a way to contain that risk to allow
9 separating the wood from the cargo. In those cases we may
10 have to shut the door and say the whole thing has to go
11 back. And I think that that's why the phrasing is that way.

12 MR. O'NEILL: Got it. Okay. Thank you.

13 MR. REEVES: Additionally, that would probably be
14 the exception, rather than the rule. I mean, we would
15 anticipate a lot more of the other than that.

16 MR. O'NEILL: Got it.

17 MR. LIDSKY: Are there any other questions or
18 comments? Yes, sir? Would you like to come forward?

19 UNIDENTIFIED SPEAKER: No comment.

20 MR. LIDSKY: No comment, okay. Ladies and
21 gentlemen, I'd like to thank everyone for coming and sharing
22 your time and thoughts with us. You've provided us with
23 some very valuable comments and it's through this type of
24 dialogue and process that it makes our job easier and
25 ultimately hopefully will make for the best rule possible.

26 So thank you very much. Any of our panel members
27 have any additional comments they'd like to make?

28 Okay. Well, with that we'll adjourn today's
29 public hearing.

1 (Whereupon, the public hearing was adjourned at
2 11:59 a.m.)
3

CERTIFICATE OF REPORTER

This is to certify that the attached proceedings
before: Department of Agriculture

In the Matter of:)

PROPOSED INTERIM RULE ON)
SOLID WOOD PACKING MATERIAL)
FROM CHINA)

Case No.: N/A

Location: Long Beach, California

Date: 11-5-98

were held as herein appears, and that this is the
ORIGINAL transcript thereof for the files of the Department
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